Brief for appellee
Record for appellee
Rand 13. Lyon

16.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 100

ENOCH JACOBS, APPELLANT,

vs.

THOMAS F. BAKER.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF OHIO.

FILED MAY 15, 1867.

SUPREME COURT OF THE UNITED STATES.

No. 244.

ENOCH JACOBS, APPELLANT,

vs.

THOMAS F. BAKER.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF OHIO.

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1 At a circuit court of the United States within and for the seventh circuit and southern district of Ohio, begun and held in the city of Cincinnati on the third Tuesday, being the 21st day of October, in the year of our Lord one thousand eight hundred and sixty-two, and in the eighty-seventh year of the independence of the United States of America, before the Honorable Noah H. Swayne and Humphrey H. Leavitt, judges of said court, the following proceedings were had, to wit:

No. 1,392.

ENOCH JACOBS
vs.
THOMAS F. BAKER. } In chancery.

Be it remembered, that heretofore, to wit, on the first day of April, in the year of our Lord one thousand eight hundred and sixty-one, came the complainant, by his solicitor, and filed in the clerk's office of the court aforesaid his certain bill of complaint against the respondent herein, which is in the words and figures following, to wit:

Bill.

To the honorable judges of the circuit court of the United States for the 7th circuit and southern district of Ohio, in chancery sitting:

Enoch Jacobs, a citizen and resident of the State of Ohio, brings this his bill against Thomas F. Baker, also a citizen of Ohio; and thereupon, orator complains and says, that on and before June 7th, A. D. 1859, he was the original and first inventor of a certain new and useful "improvement in the construction of prisons;" and being such inventor, and a citizen of the United States, and having made to the proper department of the government of the United States his application for a patent, in due form of law, and having com-
2 plied in all respects with the laws of the United States and the rules of the Patent Office thereof, on June 7th, A. D. 1859, letters patent of the United States, signed, sealed, and executed in due form of law, were issued to orator for the invention aforesaid, a copy of which letters patent are hereto annexed, and made part of this bill, "marked A."

Orator further shows, that on and before December 20th, 1859, he was the original and first inventor of a certain new and useful "improvement in iron-plate jail;" and being such inventor, and a citizen of the United States, and having applied to the proper department of the government of the United States for a patent for such invention, and having complied with all the laws of the United States and the rules of the Patent Office relative to such patents, on December 20th, A. D. 1859, letters patent of the United States, signed, sealed, and executed in due form of law, were issued to orator for the invention

aforesaid, a copy of which letters patent is hereto appended and made part of this bill marked "B."

Orator further shows, that on and before February 21st, A. D. 1860, he was the original and first inventor of a certain new and useful "improvement in joining plates of metal;" and being such inventor, and a citizen of the United States, and having applied to the proper department of the government of the United States for a patent for such invention, and having complied with all the laws of the United States and the rules of the Patent Office relative to such patents, on February 21st, 1860, letters patent of the United States, signed, sealed, and executed in due form of law, were issued to orator for the invention aforesaid, a copy of which letters patent is hereto appended and made part of this bill, marked "C."

3 Orator further shows, that on and before July 24th, A. D. 1860, he was the original and first inventor of a certain new and useful "improvement in iron prisons;" and being such inventor, and a citizen of the United States, and having made his application for a patent for such invention to the proper department of the government of the United States, and having, in all respects, complied with the laws of the United States, and the rules of the Patent Office, on July 24th, A. D. 1860, letters patent of the United States were issued to orator, signed, sealed, and executed in due form of law, a copy of which letter patent is hereto appended and made part of this bill, marked "D," whereby was granted and secured to orator, by each of said four patents, the full and exclusive right of making, using, and vending to others to be used, the several improvements and inventions in each of said patents described, for the term of fourteen years from their several dates aforesaid, to wit: June 7th, 1859; December 20th, 1859; February 21st, 1860; and July 24th, 1860.

Orator further shows to your honors that each of the four improvements so patented were new, useful, and valuable, and that orator has extensively applied the said patented improvements to practical use, and has been, and but for the infringement hereinafter complained of, still would be in the undisturbed possession, use, and enjoyment of the exclusive privilege secured by the four said letters patent, and in receipt of the profits arising from such undisturbed use and enjoyment.

Orator further shows, that said defendant, Thomas F. Baker, well knowing all the facts hereinbefore set forth, is now making, constructing, and vending to others to be used, at the district aforesaid, and elsewhere in the United States, the improvements so

4 patented to orator by each of the aforesaid patents, substantially the same in construction and operation as each of those in said several patents mentioned, the exclusive right of which is vested in orator, as aforesaid, without the leave and license of orator, against his will and in violation of his rights under the patents aforesaid, and that said defendant intends to continue to so make, construct, and vend said patented improvements in defiance of the rights of orator so secured to him by said patents. Orator, therefore, asks that a writ of subpœna may issue against said defendant; that he

may answer this bill under oath, and may be compelled to state specially how extensively he has made, constructed, vended, or used the improvements patented to orator by each of said patents; that he may be compelled to describe particularly how he does construct "the secret passage or guard chamber around the outside of each iron-plate jail" he builds, being the passage between said jail and a surrounding inclosure. Also, how he constructs, unites, and rivets the plates and parts forming the iron walls for jails and prison houses he builds or is building. Also, how he constructs the metallic plate joints in joining the plates of metal in any jails or prison houses he is now building, or has built since the date of either of said patents. Also, how he constructs and arranges plate-iron cells in jails or iron prisons separately from each other in any jail or prison house he is now building, or has built since the date of either of said patents, and how many jails or iron prisons, or other buildings he has so constructed, and where.

And orator prays a provisional injunction may be granted him until the final hearing of this bill, restraining defendant from further interfering with the rights of orator under his said patents, and that, upon the final hearing of the cause, defendant may be compelled to account for and pay over to orator the income and profits by him thus unlawfully derived from the violation of orator's said rights, and the damages thereby sustained by orator; that defendant may, on such final hearing, be perpetually enjoined from making, constructing, using, or vending to others to be used, either of said improvements so patented to orator; and that orator may have such other and further orders and decrees and relief in the premises as to the court shall seem meet, and as justice and the principles of equity and good conscience may require.

LEE & FISHER,
Solicitors for Complainant.

UNITED STATES OF AMERICA,
Southern district of Ohio, ss:

Personally appeared before the undersigned authority, Enoch Jacobs, complainant herein, who, being duly sworn, deposes and says: That the several matters and things in this bill contained are all within his personal knowledge, and that they are true in substance, form, and facts, as herein stated.

E. JACOBS.

Sworn to before me and subscribed in my presence, this 26th day of March, 1861.

[SEAL.] HENRY M. DAY,
Notary Public.

I acknowledge myself bail for costs in this case.

C. M. VALLICE.

Exhibit "A," No. 24,307.

The United States of America to all to whom these letters patent shall come:

Whereas, Enoch Jacobs, of Cincinnati, Ohio, has alleged that he has invented a new and useful improvement in the construction of prisons, which, he states, has not been known or used before his application, has made oath that he is a citizen of the United States; that he does verily believe that he is the original and first inventor or discoverer of the said improvements, and that the same hath not, to the best of his knowledge and belief, been previously known or used, has paid into the Treasury of the United States
6 the sum of thirty dollars, and presented a petition to the Commissioner of Patents signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose.

These are, therefore, to grant, according to law, to the said Enoch Jacobs, his heirs, administrators, or assigns, for the term of fourteen years from the seventh day of June, one thousand eight hundred and fifty-nine, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said Enoch Jacobs in the schedule hereto annexed, and is made a part of these presents.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Patent Office has been hereunto affixed. Given under my hand, at the city of Washington, this seventh day of June, in the year of our Lord one thousand eight hundred and fifty-nine, and the independence of the United States of America the eighty-third.

JACOB THOMPSON,
Secretary of the Interior.
WILLIAM D. BISHOP,
Com'r of Patents.

Countersigned and sealed with the seal of the Patent Office.

The schedule referred to in these letters patent and making part of the same:

To all whom it may concern:

Be it known, that I, Enoch Jacobs, of the city of Cincinnati, in the county of Hamilton, and State of Ohio, have invented a new and useful improvement in jails or prisons, and I do hereby declare that the following is a full and clear description thereof, reference being had to the accompanying drawings, and to the letters of reference marked thereon, and made to form a part of this description. The nature of my invention relates to the construction and arrangement of a secret passage or guard chamber, formed between an iron plate jail
7 and the masonry or other enclosure, by which the same may

be surrounded in such manner that said passage or chamber may be entered from without said iron structure, thereby affording great advantages in the security of prisoners, and facilities in the arrangement of water pipes, etc., as hereinafter specified and represented. In reference to the accompanying drawings, fig. 1 is a ground plan of the improvement; fig. 2 is an external view of the same in perspective; fig. 3 is a perspective view of the improvement, a portion of the outer wall being removed in order to show the arrangement of the tank, water-pipes, etc.; fig. 4 is a sectional vertical elevation, showing the arrangement of the entrance passage and the prisoners' cells. A represents the outer wall or enclosure of the jail; A is a partition wall within the enclosure A; B is the jail constructed of wrought iron plates, with a central wall B, and suitable cells C for prisoners; through the floors of the jail are made apertures d, for the purpose of ventilation, these apertures are thoroughly barred, as shown in fig. 1 opening a, in the foundation d of the jail; are made to supply the openings or ventilator d with air; upon the top of the iron jail is arranged a water-tank E, by means of which the cells c are supplied with water through the medium of pipes pp upon the outside of the iron jail B, and between it and the wall A is a secret passage or guard chamber, which leads entirely around the jail, except those portions occupied by the window F and the entrance doorway g; this passage or chamber has entrance doors (h) upon either side of the jail leading from the front hall $\frac{1}{2}$ to said passage or chamber H; in the top of the iron jail B, are barred
8 openings d, corresponding to the openings d for ventilating purposes; the central hall J, and the secret guard chamber H, are lighted by means of windows W in the roof of the enclosure A, as shown in fig. 2; the cells c also receive light from the same source by means of the barred openings d. By means of the second guard-chamber H, constructed and arranged as above-described, the person in charge of the jail and prisoners confined therein, is enabled to keep a continued and perfect inspection of the entire outside of the iron jail B, to detect any attempt to escape on the part of the prisoners, or overhear any conversation passing between them, and to regulate the supply of water to the cells; he is also enabled to inspect the discharge water-pipes, which pass from the cells c, immediately under the floor of the chamber H, so that any disarrangement or stoppage may be placed in order or repaired without delay or difficulty. I may here remark that one great advantage of a secret guard-chamber around a jail constructed of iron plate, is attributable to the facility with which sound is transmitted or conducted through the iron plates; owing to this fact a person moving carefully along the chamber H may hear distinctly every sound in the cells, and conversation between prisoners confined in said cells, although conducted in wispers, may be distinctly heard in the guard-chamber H, consequently, by means of said chamber the person in charge of the prisoners may be thoroughly cognizant of everything transpiring within the cells and without the knowledge of the prisoners. The window f may be omitted if desired, and the passage or chamber H extend unobstructed entirely

around the iron structure. What I claim as my invention and
9 desire to secure by letters patent, is a secret passage, or guard-chamber around the outside of an iron-plate jail and between said jail and a surrounding enclosure, constructed and arranged substantially as described for the purpose set forth. In testimony of which invention I have hereunto set my hand.

ENOCH JACOBS.

In presence of—
WM. P. ENSEY.
H. C. CLIFTON.

10

11

12 *Exhibit "B."—No. 2,606.*

THE UNITED STATES OF AMERICA:

To all to whom these letters patent shall come:

Whereas, Enoch Jacobs, of Cincinnati, Ohio, has alleged that he has invented a new and useful improvement in iron-plate jail, which he states has not been known or used before his application, has made oath that he is a citizen of the United States; that he does verily believe that he is the original and first inventor or discoverer of the said improvement, and that the same hath not to the best of his knowledge and belief been previously known or used, has paid into the treasury of the United States the sum of thirty dollars, and presented a petition to the Commissioner of Patents, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose. These are, therefore, to grant, according to law, to the said Enoch Jacobs, his heirs, administrators, or assigns, for the term of fourteen years from the twentieth day of December, one thousand eight hundred and fifty-nine, the full and exclusive right and liberty of making, constructing, using and vending to others to be used the improvement, a description whereof is given in the words of the said Enoch Jacobs, in the schedule hereunto annexed, and is made a part of these presents.

I testimony whereof, I have caused these letters to be made patent and the seal of the Patent Office has been hereunto affixed. Given under my hand at the city of Washington this twentieth day of December, in the year of our Lord one thousand eight hundred and fifty-nine, and of the independence of the United States of America the eighty-fourth.

JACOB THOMPSON,
13 *Sec'y of the Interior.*
WM. D. BISHOP.
Com'r of Patents.

Countersigned and sealed with the seal of the Patent Office.

The schedule referred to in these letters patent and making part of the same:

To all whom it may concern:

Be it known that I, Enoch Jacobs, of the city of Cincinnati, in the county of Hamilton, and State of Ohio, having invented a new and useful improvement in jails or prisons, and I do hereby declare that the following is a full, clear, and exact description thereof, reference being had to the accompanying drawings and to the letters of reference marked thereon, made to form a part of this specification. My invention relates 1st, to the construction of jails or prisons of chill-rolled wrought iron plates, secured together in such manner that the walls, partitions, and floors of said structure may be substantial, strong, and durable, and most effectually prevent the escape of persons confined therein, and at the same time afford all necessary facilities for plumbing, light, ventilation, ingress and egress; 2d, to a special provision for securing the edges of said plates; 3d, to a device for more perfectly securing the doors, as hereinafter specified and represented. Of the accompanying drawings, fig. 1st represents a ground plan of the jail or prison, surrounded by a wall of masonry. Fig. 2 shows in perspective an external view of the jail, the doors of which are provided with the securing keeper. Fig. 3 is a perspective view, showing of the base door and the arrangement of the barred ventilator. Fig. 4 is a sectional view, taken through the red lines (x x,) showing the manner of overlaying and securing the edges of the plates at corners. Fig. 5 is a sectional view, taken through the red lines (y y,) showing the manner of securing the abutted edges
14 of the plates. Fig. 6 is a sectional view of the upper floor or top of the jail. Fig. 7 is a sectional bottom view of the base floor. A are chill-rolled wrought plates of which the jail or prison is constructed; their edges are abutted, as fully shown in Fig. 5, thus presenting a smooth surface on the inside, and preventing the insertion of wedges, or other devices, by means of which the plates A might be separated to allow the sawing or cutting of the rivets, (e) are strips of the same material and thickness as the plates A, overlaying the joints or seams formed by the abutted edges of the plates. These strips (e) are firmly riveted to said plates, on each side of the seam (d) by means of the rivets (i,) the joints of which are deeply countersunk in the plates A, as fully shown in Figs. 3, 4, and 5, so that the said plates can not be separated or removed save by cutting entirely through them; (e) is an overlying corner strip made to fit the corners as shown in Fig. 4, and riveted to the plates A in the manner before described; (A) is the base floor constructed of the plates A, and in addition to the strips e) has similar strips (e) crossing strips (e,) and riveted to the plates A in like manner, as fully shown in Fig. 7; these cross strips (e) serve to give strength and solidity to the floor (f;) this floor is formed with barred aperatures or ventilators, fully shown in Figs. 3 and 7, by means of which air may be admitted to all the apartments of the jail. The upper floor or top of

the jail is constructed similar to the base floor, and is provided with corresponding ventilators (g,) as shown in Fig. 2 and 6; (z) is a securing keeper formed with a long arm (H,) and short arms (h h,) and arranged in such manner that when the door (j) is closed the long arm (h) will extend across the lock, covering the key hole, to the other side of the door, where it may be secured by means of a padlock, and the short arms (h h) extend over and bear upon the bars (k k) of the door (j,) thus affording to it additional security. These jails may be constructed with one more stories, and provided with suitable staircases, gallerys, railings, &c.; the thickness of the iron may be varied according to the strength of the structure required; they may be enclosed with walls of masonry, or may be provided with suitable roofing, and be used without such enclosure. What I claim in the construction of jails and prisons houses, is the improved iron walls for the same, consisting of the following parts arranged and united as set forth, to wit: the entire wall plates A having their edges closely abutting, the joint plates (e) united to and uniting the plate A, by rivets (i,) which have their riveted ends inwards, and countersunk to the depth of the thickness of the plate A, in the manner and for the purposes herein set forth.

ENOCH JACOBS.

Witnesses—
H. E. CLIFTON.
F. A. MCDOWELL.

Exhibit "C," No. 27,222.

The United States of America, to all whom these letters patent shall come.

Whereas, Enoch Jacobs, of Cincinnati, Ohio, has alleged that he has invented a new and useful "improvement in joining plates of metal, which he states has not been known or used before his application, has made oath that he is a citizen of the United States; that he does verily believe that he is the original and first inventor or discoverer of the said improvement, and that the same hath not to the best of his knowledge or belief been previously known or used, has paid into the treasury of the United States the sum of thirty dollars, and presented a petition to the Commissioner of Patents, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose. These are, therefore, to grant, according to law, to the said Enoch Jacobs, his heirs, administrators, or assigns, for the term of fourteen years from the twenty-first day of February, one thousand eight hundred and sixty, the full and exclusive right, and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said Enoch Jacobs,

in the schedule hereunto annexed, and is made a part of these presents.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Patent Office has been hereunto affixed. Given under my hand at the city of Washington, this twenty-first day of February, in the year of our Lord one thousand eight hundred and sixty, and of the independence of the United States of America the eighty-fourth.

JACOB THOMPSON,
Sect'y of the Interior.
PHILIP F. THOMAS,
Com'r of Patents.

Countersigned with the seal of the Patent Office.

The schedule referred to in these letters patent, and making part of the same.

Be it known, that I, Enoch Jacobs, of Cincinnati, in the county of Hamilton, and State of Ohio, have invented a new and improved metalic plate joint, and I do hereby declare that the following is a full and exact description thereof, reference being had to the accompanying drawings of which the fig. 1 is a plan, and fig. 2, a section. The nature of the invention is manifest from the inspection of the drawings in which A represents the plates to be united, and B the splice plate B. The form of the splice plate when rolled into its proper shape, c c, represents the true form best adapted for the rivets to fasten the plates together. The invention presented in this joint, depends chiefly on the previous separation of the splice plates. This plate, originally a plain plate or bar of iron, is put between groove rollers, and the middle portion of the bar rolled into the semicylindrical form, while the flat or plain portion is left sufficiently wide to embrace the rivet holes, which, to be most effective, are countersunk to the depth of the plate; but the countersinking is not a necessary part of the construction, as the common plain rivets may be used for the same purpose. The splice plate B, is so called out that the shoulders formed at the commencement of the curved part, when properly made, are somewhat thickened, which gives strength to the joint above that which would be furnished by a plain splice piece.

Another and still greater advantage of this joint construction, is the hollow semicircular space which it encloses, is designed to be used in the construction of buildings for several useful purposes, as for conveying air or water, or both. If this joint be used by itself, it forms a good covered way for the conveyance of sound from one part of the building to another, as giving orders to servants, and directions to employees. It also may be employed for guarding water pipe through the building, for receiving fresh and discharging waste water, and for various other useful purposes, as air, water and ventilation purposes. The utility of the device for the purpose of a speaking tube is valuable and highly practical. Indeed it is not only practicable to use the devices for one of these purposes, but as the devices are repeated as many times as the plates themselves are re-

peated, consequently they are abundant for all the purposes referred to at the same and in the same structure. This joint is specially applicable to the walls of houses designed for prisons, jails or penitentiaries, when the tubular passage of the joint runs in the perpendicular direction, and is specially fitted for the purposes already stated. Having now fully described my method of constructing the joints of metallic plates, and shown the advantages and the method of using the same, I proceed to state what I regard as the spirit of invention, and what I wish to claim. What I claim as my invention, and desire to secure by letters patent, is the construction of the joint made by means of the closely abutting plates A A, and the flat and semicylindrical plates B B, and rivets (c c,) substantially in the manner and for the purpose set forth.

ENOCH JACOBS.

Witness: JAMES LEWIS.
D. ADAMS.

22

23 *Exhibit "D," No.* 29,282.

The United States of America, to all whom these letters patent shall come:

Whereas, E. Jacobs, of Cincinnati, Ohio, has alleged that he has invented a new and useful improvement in iron prisons, which he states has not been known or used before his application, has made oath that he is a citizen of the United States; that he does verily believe that he is the original and first inventor or discoverer of the said improvement, and that the same hath not to the best of his knowledge and belief been previously known or used, has paid into the Treasury of the United States the sum of thirty dollars, and presented a petition to the Commissioner of Patents, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose. These are, therefore, to grant, according to law, to the said Enoch Jacobs, his heirs, administrators or assigns, for the term of fourteen years from the twenty-fourth day of July, one thousand eight hundred and sixty, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said E. Jacobs, in the schedule hereunto annexed, and is made a part of these presents.

In testimony whereof, I have caused these letters to be made patent and the seal of the Patent Office has been hereunto affixed. Given under my hand at the city of Washington, this twenty-fourth day of July, in the year of our Lord one thousand eight hundred and sixty, and of the independence of the United States of America the eighty-fifth.

JACOB THOMPSON,
Secretary of the Interior.
PHILIP F. THOMAS,
Commissioner of Patents.

Countersigned and sealed with the seal of the Patent Office.

24 The schedule referred to in these letters patent, making part of the same.

To all whom it may concern :

Be it known that I, Enoch Jacobs, of Cincinnati, in the county of Hamilton, and State of Ohio, have invented a new and useful improvement in iron jails, and I do hereby declare that the following is a full and exact description of the same, reference being had to the accompanying drawings, of which fig. 1 is a perspective view of a jail, comprising double rows of cells arranged in two stories. Fig. 2 is a verticle section through the central passage which separates the rows of cells. Fig. 3 is a plan of the cells and passage. My invention relates to jails in which the cells are made of plates of iron and riveted together, and it consists in making each cell separate and entire, and so arranging them together as to afford a space between each cell and the cell next adjacent thereto, in the manner and for the purpose hereinafter set forth. Like letters refer to corresponding parts in all the drawings. A is a wall of masonry inclosing the cells. it is contained within the outer wall of the building. B is a gallery or area surrounding the wall A upon three sides, affording access to all the cells through the doors c. These doors are grated as shown, and are hung and secured in the usual manner. The cells D are in rows, arranged with an end of each towards the surrounding gallery or area B, while the opposite end of each is towards a central passage F, which extends the whole length of the row of cells, and is wide enough to afford space for the water pipes, ventilator, flues, and soil ducts ; also, to afford an area which may be traversed by the guard or persons having charge of the prison,
25 unobserved and unknown to the prisoners, for the purpose of overhearing and detecting conspiracies among them, or any attempt that they may be making to escape. The cells are constructed—each cell saparate and independent of all the rest; they are then arranged alongside of each other in rows, so as to leave a small vacant place between each two cells, and when the jail consists of more than one story or tier of cells, the tiers or stories are arranged one above another, with a similar horizontal space (f) between each tier; the upper tier being supported upon the tier next below by angle irons or sheds h placed over the corners of the latter, as represented in fig. 2. Those spaces, if desired, may be filled with concrete or some familiar substance, such as tan bark or saw dust, possessing the property of opposing the transmission of sound; a a are ventilators leading from each cell upwardly, and discharging through the roof; b b are soil ducts; c c are stools placed in the cells; F is a grated door leading from the area B, surrounding the cells, into the secret passage E; between the rear ends of the rows of cells a grated covering G affords a walk or floor upon a level with the floors of each tier of cells; the openings in the walk or floor admits the light from a window in the roof ; in the passage they also allow of the escape of foul air. Iron-plate jail cells have heretofore been made united with a single partition of iron, separat-

ing the two adjacent cells—that is the cells which are alongside of each other, as well as those that are arranged one above another. The objection to this manner of constructing and arranging the cells is, that they afford no adequate security against the intercourse of prisoners in adjacent cells. It is found that conversation can
26 be carried on with considerable facility by the prisoners, without being heard by the guard, while the peculiar sonoriousness of iron plates is such, that by a concerted arrangement of rapping signals, they are enabled to with each other, with the utmost security against detection. By constructing and arranging the cells separate and distinct from each other, with a space between them upon all sides, and having a secret passage for the convenience of the guard when he becomes desirous of becoming acquainted with their movements, any attempt on the part of the prisoners to converse or hold clandestine intercourse with each other, or to work their way through the cells by means of tools or levers is easily detected. The cells could obviously be arranged to open into a central instead of an outside area. In this case the secret passage for the guard or keeper would be made around upon the outside of the space occupied by the cells, as provided in my invention, for which letters patent were granted to me April 7th, 1859. As the secret passage E, herein described, is only a modification of that which is employed or embraced in the patent above-named, I do not claim it as a part of my present invention. Having described my manner of constructing and arranging iron cells for jails, what I claim as new, and desire to secure by letters patent is, I claim constructing and arranging plate iron cells in jails, separately from each other, with vertical spaces e between the cells upon the same level, and horizontal spaces f between cells arranged one above another, substantially as and for the purpose described.

E. JACOBS.

Witness: WILLIAM CLOUGH.
CHARLES L. FISHERS.

27

28

29 And thereupon, on said first day of April, A. D. 1861, there was issued out of the clerk's office of the court aforesaid, a certain writ of supœna in chancery, against the said Thomas F. Baker, which is in the words and figures following, to wit:

Subpœna.

UNITED STATES OF AMERICA, *Southern district of Ohio, ss:*

The President of the United States of America to the marshal of the southern district of Ohio, greeting:

You are hereby commanded to summon Thomas F. Baker, a citizen of and resident in the State of Ohio, if he be found in your district, to be and appear in the circuit court of the United States for the southern district of Ohio, aforesaid, at Cincinnati, on the first Monday in May next, to answer a certain bill in chancery, filed and

exhibited in said court against him by Enoch Jacobs, a citizen of and resident in the State of Ohio. Hereof they are not to fail under the penalty of the law thence ensuing; and have you then and there this writ.

Witness, the Honorable Roger B. Taney, Chief Justice of the United States, this first day of April, A. D. 1861, and in the 85th year of the independence of the United States of America.

Attest: JOHN McLEAN, Jr., *Clerk.* [SEAL.]

Memorandum.

The said defendant is required to enter his appearance in this suit, in the clerk's office of said court, on or before the first Monday of May, 1861, otherwise the said bill may be taken pro confesso.

JOHN McLEAN, *Clk.*

Security for costs.—Endorsement for security for costs.

C. M. Valleau, of Clifton, acknowledges himself security for all costs in this suit.

And afterwards to wit: on the first Monday, in May, A. D. 1861, it being the time to which said writ was made returnable, came the marshal, to whom, in form aforesaid, said writ was directed, and returned the same into the clerk's office of the court afore-
30 said, with his proceedings endorsed thereon, in the words and figures following, to wit:

Marshal's return.

APRIL 9*th*, 1861.

Served the within named Thomas F. Baker, personally, by copy.

LEWIS W. SIFFORD,
U. S. Marshal.
By R. C. ROHNER, *Deputy.*

And afterwards, to wit: on the 13th day of July, A. D. 1861, came the defendant, by his attorneys, and by leave of court first had, filed his certain answer herein to complainant's bill of complaint, which said answer is in the words and figures, following, to wit:

Circuit court of the United States, southern district of Ohio.

Answer.

ENOCK JACOB
vs.
THOMAS F. BAKER. } In chancery.

The answer of Thomas F. Baker, the defendant above named, to a bill of complaint of Enock Jacobs, complainant.

The defendant now, and at all times hereafter, saving and reserving to himself all, and all manner of benefit, and advantage of exception to the manifold errors, uncertainties, imperfections, and insuffi-

ciencies in the said complainant's said bill of complaint contained, for answer thereunto, or unto so much or such parts thereof, as he is advised is material for him to make answer unto, he, this defendant, answering, saith that he has no knowledge or information whereon to found a belief, except the statement in said bill contained, as to whether the said complainant made, in due form of law, application to the proper department of the government of the United States for the several alleged patents in said bill referred to, nor whether the said alleged patents were issued to complainant as alleged in the said bill, as he therefore leaves said complainant to make such proof in regard thereto as the court may require; but this respondent denies that the said several alleged inventions, in
31 said alleged patents named, or any of them, are or were, at the time said alleged patents were issued, new; and further denies that said complainant was the original and first inventor of the same, or any of them, but, on the contrary thereof, this respondent says that the several contrivances, in said alleged patents mentioned, were all of them well known and in general use among mechanics engaged in iron-plate jail work long before the dates of the said alleged patents, or the time of the pretended invention of them by said complainant.

This defendant, further answering, saith that, as to the alleged patent, firstly in said bill set forth, by which the invention of a secret passage or guard chamber around the outside of an iron-plate jail, and between said jail and a surrounding enclosure, constructed and arranged substantially as described for the purpose set forth in said patent, the same has never been infringed upon by him; that he has never constructed, nor sold, nor used, a series of cells, nor an iron-plate jail with such a secret passage or guard chamber, nor with any contrivance which could be used for the purposes claimed for such secret passage in said patent. This defendant admits that he has, at divers times, constructed cells for jails, in which an interval was left between the cells and the external walls of the building; but that such space was left because the cells were placed in the building after the walls thereof had been erected, and the said space was necessary to enable workmen to work on the outside of the cells in putting them together, and in painting the exterior; and said spaces were not designed to be used, nor were they to the knowledge
32 of this defendant used, nor could they, in most cases, have been used for any of the purposes named in the said patent dated June 7th, 1859.

And for answer to the interrogations propounded in said bill, this respondent says, that he does not construct the secret passage or guard chamber around the iron-plate jails made by him, and never has; that where any passage is left in jails constructed by him, between the cells and the external walls by which they are surrounded, such passage is left merely for conveniance in working upon the outside of the cells, and never any other purpose, nor have such passages ever, to the knowledge of this defendant, been constructed or used in jails made by him for any of the purposes mentioned in

complainant's patent; nor have any such spaces been left in any jail for which this respondent has made cells, except in cases where the external walls have been erected before the cells could be finished; that he construct and rivets the plates and parts forming the iron walls for jails and prison houses built by him in the following manner: The plates used are of chilled wrot-iron or boiler plates, the edges of the plates being abutted together and joined by a plate of iron of same thickness as the sheets, and riveted through to both edges of plates, the rivets being sometimes a button set, and sometimes a countersunk; that he used said method in the following instances: In November, 1855, eight cells, put up in the town of Princeton, Illinois; in September, 1857, at Monmouth, Illinois; in August, 1857, two cells in Martin county, Ia.; in June, 1858, four cells for Adams county, Ohio; in September, 1858, two cells
33 for Foltin county, Illinois; in October, 1858, thirty-six cells for Floyd county, Ia.; in December, 1858, eighteen cells for Marion county, Missouri; in July 1859, twenty cells for Dearborn county, Indiana; in December, 1859, seven cells for Fulton county, Kentucky; in April, 1860, seven cells at Neport, Kentucky; in May, 1860, four cells for Davies county, Ia.; in June, 1860, three cells for Helena Arkansas; in November, 1860, four cells for Nodaway county, Missouri; in November, 1860, four cells for Fleming county, Kentucky; in October, 1860, sixteen cells for Scioto county, Ohio; at present, a series of cells for Van Wert county, Ohio; that he constructs the metallic-plate joints informing the plates of metal in jails, in the manner above stated, and has used that method in the instances above stated, and ever since has been in the business; that is for at least ten years; that he has constructed plate-iron cells in jails separately from each other, by making each cell complete, and setting them side by side, and about one and a half inches apart, in the following instances: In June, 1860, three cells for Helena, Arkansas; and in further answer to all of said interrogatories, this respondent says, he is now making one hundred and forty-four cells for the jail of Hamilton county Ohio, after designs furnished by the county. These cells are made of plate iron, and riveted together by abutting the edges of the plates and covering the joints with a corrugated button or plate, and riveting through to both edges of the plates. The only difference between the corrugated and plain button, is, that in the corrugated button, which was adopted by the
34 architect in the Hamilton county jail, the middle of the plate is semi-circular, the object of which is, to this respondent, unknown further than to give vertical stiffness and a better exterior appearance to the work. The cells are being placed in such a position as to leave a space all around the outside, and between them and the walls of the building. They are also being put up separately, side by side, and four tiers in height, the spaces between the cells being one and a half inches; that the plans of said jail work, as above described, were fully made and complete in all its parts long before the issue of any of the said alleged patents to said complainant, and long before his pretended invention. Wherefore this res-

pondent having fully answered, asks to be hence dismissed with his costs in this behalf expended.

WORTHINGON and MATTHEWS,
Att'ys of Respondent.

STATE OF OHIO, *Hamilton county, ss:*

Personally appeared before the undersigned authority, the above-named respondent, Thomas F. Baker, who, being duly sworn, says that the matters and things contained in the foregoing answer, are true to the best of his knowledge, information, and belief.

THOMAS F. BAKER.

Signed in my presence, and sworn to before me, this 11th day of July, A. D. 1861.

SAM'L R. MATTHEWS, [SEAL.]
Notary Public within and for Hamilton county, Ohio.

L., pp. 180.

And afterward, to wit: on the twenty-seventh day of July, A. D. 1861, the court sitting at chambers, on hearing of the motion for injunction, made by complainant in this cause, the court overruled the same, but order the defendant to give bond in the sum of
35 $1,000, conditiond to pay to complainant all such damages as he may sustain by reason of the infringement complained of in said bill. Said bond to be given within ten days, and with security to the satisfaction of the clerk of this court.

And afterwards, to wit: on the 29th day of July, A. D. 1861, came the complainant and filed in the clerk's office of said court, his replication herein, which is in the words and figures following, to wit:

Replication.

Circuit court of the United States, southern district of Ohio.—In Chancery.

Replication of Enoch Jacobs, complainant, to the answer of Thomas F. Baker, defendant.

This repliant, reserving to himself all advantage of exception to the manifold insufficiences of said answer for replication thereunto said, that he will aver and prove his said bill to be true, certain, and sufficient in law to be answered unto, and that the said defendant's answer is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in said answer contained, material, or effectual in law to be replied unto, confessed, and avoided, traversed, or denied, is true; all which matters and things this repliant is, and will be, ready to aver and prove, as this honorable court shall direct, and prays as in and by his said bill he hath already prayed.

LEE and FISHER,
Solicitors for Complainant.

And afterwards, to wit: on the 5th day of August, A. D. 1861, came the defendant, and in pursuance of the order of court heretofore made herein, filed his certain bond in the words and figures following, to wit:

Bond.

Know all men by these presents, that we, Thomas F. Baker and Henry F. Handy, of Cincinnati, Ohio, are held and firmly
36 bound unto Enoch Jacobs, in the penal sum of one thousand dollars, to be levied of our goods and chattels, lands and tenements, for which payment, well and truly to be made, we do hereby, jointly and severally, bind ourselves, our heirs, executors, administrators, and assigns. Sealed with our seals, and dated this first day of August, in the year of our Lord one thousand eight hundred and sixty-one.

The condition of the above obligation is such, that whereas the above-named Enoch Jacobs has obtained the allowance of an order in the circuit court of the United States for the southern district of Ohio, "sitting at chambers," on July 27th, 1861, to give bond as above conditioned, to pay to complainant all such damage as he may sustain by reason of the infringement complained of in his bill: Now if the said Thomas F. Baker shall pay complainant all such damages as he may sustain by reason of the infringement complained of, and all moneys and costs which shall be decreed against him, the said T. F. Baker, then this obligation to be void, otherwise in full force and virtue in law.

THOMAS F. BAKER. [SEAL.]
HENRY F. HANDY. [SEAL.]

Witness:
NAT. C. MCLEAN, Jr.

L., pp. 356.

And afterwards, to wit: on the 22d day of October, A. D. 1862, upon motion of defendant's counsel, and consideration thereof by the court, leave is granted to the defendant to amend his answer on or before Monday, November 3d, upon payment of the costs of said amendment.

And afterwards, to wit: on the 27th day of October, A. D. 1862, in pursuance of the leave granted in the foregoing entry, came the defendant and filed his amended answer herein, which is in the words and figures following, to wit:

Amended answer.

37 United States circuit court in and for the southern district of Ohio.—In chancery.

THOMAS F. BAKER
vs.
ENOCH JACOBS.

Amended answer of Thomas F. Baker.

And now comes the said defendant, and by leave of court amends his answer heretofore filed herein, and in addition to the matters and things therein alleged, further answering, says: That as to the alleged invention in the alleged patent firstly in said bill mentioned, the said complainant is not the original and first inventor of the same, or of any material or substantial part thereof claimed by him as new; but on the contrary thereof, the same device or devices as therein deseribed, long prior to the date of the said pretended invention thereof by the said complainant, were known to Isaiah Rogers, who resides in the city of Cincinnati, in the State of Ohio, and who used the same in the jail designed by him for the county of Hamilton, in the city of Cincinnati, in the State of Ohio; and to Thomas F. Baker, this respondent, who resides in the city of Cincinnati, and who used the same in jails erected by him in the towns of New Albany and Lawrenceburg, in the State of Indiana, and in the town of Princeton, in the State of Illinois; and to Michael Clements and Charles S. Rankin, who reside in the city of Cincinnati, in the State of Ohio. And respondent hereby gives notice that he intends to prove that said Rogers, Baker, Clements, and Charles S. Rankin possessed a knowledge of said device or devices prior to the alleged invention thereof by said complainant, and used the same, as hereinbefore stated.

And this respondent further says, that as to the alleged invention in the alleged patent secondly in said bill mentioned, the
38 said complainant is not the original and first inventor of the same, or of any material or substantial part thereof claimed by him as new; but that, on the contrary thereof, the same devise or devices therein described, long prior to the date of the pretended invention of the same by the said complainant, were well known to and in general use by workers in iron plates, and that this respondent intends to prove on the trial of this cause that the following named persons possessed a knowledge of said device or devices, and used the same prior to the alleged invention thereof by said complainant, to wit: Thomas F. Baker, this respondent, who resides in the city of Cincinnati, and who used the said devices in iron-plate jails made by him in the last named city; and also, in the towns of Portsmouth, in the State of Ohio; New Albany and Lawrenceburg, in the State of Indiana; Hickman, in the State of Kentucky; Palmyra, in the State of Missouri; Princeton, in the State of Illinois; Isaiah Rogers, who resides in the State of Ohio and city of Cincinnati, and who used the same in the jail designed by him for the county of Hamilton, at the

said city of Cincinnati; Michael Clements, who resides in the city of Cincinnati aforesaid, and who used said device in iron-plate jails constructed by him at the workshops of said Baker, in the same city; Theodore Moorman, who resides in the city of Cincinnati aforesaid, and who used the said devices in iron-plate jails constructed by him at the workshops of said Baker, in the same city; Richard
39 Dumont, who resides in the city last aforesaid, and who used said devices at his workshops in the same city; Charles S. Rankin, who resides in the city last aforesaid, and who used the same devices in making iron-plate jails at the workshops of said Baker, and of Macry & Rankin, in the same city; Charles F. Dumont, who resides in the city last aforesaid, and who used the said devices in lard kettles and tanks, and other iron workshops in the same city; George Stacy, who resides in the city last aforesaid, and who used the said devices in constructing iron bridges and other iron work, at his workshops in the same city; Joshua P. Walton, who resides in the city last aforesaid, and who used the said devices in the construction of iron-plate jails, bank vaults, and other iron works, at the city of Cincinnati; F. Monnig, who resides in the city of Cincinnati, and who used the said devices at the workshops of N. T. Horton, now deceased, and also at his own shop, in the same city; Joseph L. Hall, who resides in the city last aforesaid, and who used the said devices in making the walls of iron-plate bank vaults at his workshops in the same city.

And the respondent further says, that as to the alleged invention in the alleged patent, thirdly in said bill mentioned, the said complainant is not the original and first inventor of the same, or of any material or substantial part thereof claimed by him as new, but, on the contrary thereof, the same device or devices therein described, long prior to the pretended invention of the same by the said complainant, were well known to and in general use among workers in
40 iron; and this respondent hereby gives notice that on the trial of this cause he intends to prove that the following named persons possessed a knowledge of said device or devices, and used the same, prior to the alleged invention thereof by said complainant, to wit: the same Isaiah Rogers, George Stacy, and Charles F. Dumont, hereinbefore mentioned, and Thomas Phillips, who resides in the city of Cincinnati, in the State of Ohio, and were used by them at their offices and shops in the same city, and by the said George Stacy at the city of Chicago, in the State of Illinois.

And this respondent further says, that as to the alleged invention in the alleged patent, fourthly in said bill mentioned, the said complainant is not the original and first inventor of the same, or of any material or substantial part thereof claimed by him as new; but that, on the contrary thereof, the same device or devices therein described, long prior to the pretended invention of the same by the said complainant, were well known and in use; and that on the trial of this cause, this respondent intends to prove that the following named persons possessed a knowledge of said device or devices, and used the same, prior to the alleged invention thereof by said complainant, to

wit: the same Isaiah Rogers and Thomas F. Baker, hereinafter named, who used the same at Cincinnati, Ohio, in the jails designed by said Rogers for said county; and James Whitehouse, who resides in the city last aforesaid, and who used the same at Falmouth, in the State of Kentucky.

41 And as to the pretended invention in the alleged patents, firstly and fourthly in said bill mentioned, this respondent further says that long anterior to the pretended invention of the devices therein described, the said devices had, each, every, and all of them, been fully and perfectly described in a certain public work, to wit: in certain plans, drawings, and specifications designed, drawn, and written by the same Isaiah Rogers hereinbefore mentioned, at the city of Cincinnati, which plans, drawings, and specifications represented and described a certain jail or prison intended to be erected at Cincinnati for the use of the county of Hamilton, in the State of Ohio; that the said plans, drawings, and specifications were accepted by Richard K. Cox, sr., and David A. Black, then commissioners of said county, and on the 15th of July, A. D. 1851, were by them made the basis of a certain contract that day entered into by them, on behalf of said Hamilton county, with M. H. Cook, and others to this respondent unknown, composing the firm of M. H. Cook & Co., for the erection of the said proposed jail or prison house, and on the day last aforesaid were by them published and publicly made known as the plans, drawings, and specifications according to which the said proposed jail was to be built.

And as to the pretended invention in all of said alleged patents in said bill mentioned, this respondent further says, that, anterior to the pretended invention of the devices therein described, the said devices had, each every, and all of them, been fully and perfectly described in a certain other public work, to wit: in certain

42 other plans and drawings, designed and drawn by the same Isaiah Rogers hereinbefore mentioned, at the city of Cincinnati, which plans and drawings represented and described a certain other jail or prison house intended to be erected, and which has been actually been erected, at said city, for the use of said Hamilton county; that the same were designed and drawn by the said Rogers, on the order of the commissioners of said county, for the use of said county, and were completely designed on or before the 6th day of June, 1856, except as to the details of the cells therein, which were completed on paper on or before the 19th day of December, 1859, though long previously designed in full; that said plans were adopted by the said county, and by the said commissioners made the basis of a contract for the erection of a jail in said county, entered into by said commissioners on the day of June, A. D. 1860, with Henry and Truman B. Handy, partners, as Handy & Bro.; that previously to making said contract, the said plans were publicly shown and exhibited and published as the plans according to which said jail was to be erected, and that too before the pretended invention by said complainant of the devices in said several patents described and claimed.

Wherefore, this respondent asks that the said several letters patent in said bill set out, may be declared void, and that judgment may be rendered in his favor for costs.

By WORTHINGTON & MATTHEWS,
Solicitors for Defendant.

STATE OF OHIO, *Hamilton county, ss:*

Personally appeared before me, the undersigned authority,
43 Thomas F. Baker, the above named respondent, who, being duly sworn, says that the matters and things stated in the foregoing amended answer are true, to the best of his knowledge, information, and belief.

THOMAS F. BAKER.

Signed in my presence and sworn to before me, this 24th day of October, A. D. 1862.

[SEAL.] EDWIN COX,
Notary Public.

En. L, pp. 387.

And afterwards, to wit, on the 4th day of November, A. D. 1862, this cause came on to be heard at this term upon complainant's bill, and original and amended answers of defendants, exhibits and proofs, and argument of counsel; and, after due consideration, the court finds the equity of the case with the defendant, and thereon the court orders, adjudges, and decrees that the complainant's bill be dismissed at his costs, to be paid by him in thirty days, or execution issue therefor as on a judgment at law.

Entry L, pp. 402.

And afterwards, to wit, on the 4th day of December, A. D. 1862, came the complainant, by his solicitor, and prayed that an appeal be allowed him from the decree heretofore rendered in this cause to the Supreme Court of the United States, and that security therefor be fixed.

Thereupon, the court allow such appeal, and order complainant to give good and sufficient security to prosecute his said appeal to effect, and answer all damages and costs if he fail to make his appeal good, in the sum of five hundred dollars, ($500 00.)

Appeal bond.

Know all men by these presents, that Enoch Jacobs, principal, and William L. Evans, surety, are held and firmly bound unto Thomas F. Baker, his heirs, executors, and administrators, in the penal sum of five hundred dollars, to the payment of which, well and truly to be made, they do hereby bind themselves, their heirs,

44 executors, and administrators, jointly and severally, firmly by these presents.

Sealed with their seals, signed and dated, this 24th day of November, A. D. 1865.

The condition of this obligation is such that, whereas, on the 1st day of April, A. D. 1861, the said Enoch Jacobs filed his bill of complaint in the circuit court of the United States for the southern district of Ohio, against said Thomas F. Baker, numbered 1,392, in said court, and said cause proceeded to a hearing; and afterwards, to wit, on the 4th day of November, A. D. 1862, the said bill was dismissed at the cost of said complainant; and the said complainant praying an appeal to the Supreme Court of the United States, an appeal was allowed upon complainant's filing an appeal bond in the sum of five hundred dollars:

Now, therefore, if said complainant shall, with all practical speed, cause a transcript of the record of said cause to be filed with the clerk of the Supreme Court of the United States, and prosecute his said appeal to effect, and answer all damages and costs, if he fail to make his appeal good, and abide by all orders and decrees which may be made and rendered by the said Supreme Court of the United States, then these presents shall be void; otherwise to be and remain in full force, virtue, and effect.

Done at Cincinnati, the day and year first above written.

[SEAL.] ENOCH JACOBS.
[SEAL.] WILLIAM L. EVANS.

In presence of—
THEO. KEMPER,
E. LONGLEY.

And afterwards, to wit, on the 16th day of September, A. D. 1861, the deposition of William Clough was filed herein, which is in the words and figures following, to wit:

45 *Notice.*

United States circuit court, southern district of Ohio.

ENOCH JACOBS
vs.
THOMAS F. BAKER.

The defendant will take notice, that, on Wednesday, the eleventh day of September, A. D. 1861, the complainant above named will take the depositions of sundry witnesses, to be used as evidence on the trial of the above cause, at the office of Lee and Fisher, 53 West Tnird street, Cincinnati, in the county of Hamilton, in the State of Ohio, between the hours of eight o'clock a. m. and six o'clock p. m. of said day, and that the taking of the same will be adjourned from day to day, between the same hours, until they are complete.

LEE & FISHER,
Attorney for Complainant.

Service of the above notice is acknowledged, and proof the official character of the officer before whom the said depositions may be taken is, by agreement, waived. Also, all exceptions in regard to time.

WORTHINGTON & MATTHEWS, *Att'ys.*

Deposition of sundry witnesses taken before me, D. K. Cady, jr., a notary public within and for the county of Hamilton, in the State Ohio, on the eleventh day of September, in the year A. D. 1861, between the hours of eight o'clock a. m. and six p. m., at the office of Lee and Fisher, 53 West Third street, Cincinnati, in said county, pursuant to the annexed notice, to be read in evidence on behalf of plaintiff in the said action:

Deposition of Wm. Clough.

William Clough, of lawful age, being duly sworn, deposes and saith:

Ques. 1st. State your age, residence, and occupation.

Ans. Age, forty; residence, Cincinnati; occupation, consulting engineer.

2d. State the nature of your acquaintance with mechanics, and also with patents.

Ans. I have been engaged in the business of patent soliciting for four years, and have otherwise been engaged in mechanical pursuits for fifteen years.

Ques. 3d. Have you examined the jail now being con-
46 structed by the commissioners of Hamilton county? If so, state where said jail is located, and when you made such examination.

Ans. I have examined the jail. It is located between Main and Sycamore streets, in Cincinnati. I have made the examination several times in the course of its construction; and, lastly, on yesterday. The jail is between Court street and the canal, adjacent to the court-house.

Ques. 4th. Have you read a patent granted to Enoch Jacobs, June 7th, A. D. 1859, for an improvement in the construction of prisons? Also, a patent granted to said Jacobs on the 20th December, A. D. 1859, for an improvement in iron-plate jails? Also, a patent granted to said Jacobs, 21st February, A. D. 1860, for an improvement in joining plates of metal; and, also, a patent granted to said Jacobs, July 24th, 1860, for an improvement in iron prisons? If so, please state whether you are familiar with the specification of sad patents, and understand the inventions therein described and complained.

Ans. I have examined the patents, and I understand the patents as described and claimed.

Ques. 5th. Please look at first of said patents, and state how far the jail, which you have spoken of before, corresponds with the invention therein set forth?

Ans. The nature of the invention, as claimed, consists in an

arrangement of cells having a guard-chamber in the rear of the cells, which may be entered and traversed by the prison keeper; also, affording space for water pipes and other conveniences connected with the cells. The cells in the jail herein referred to, viz: the Hamilton county jail, are so arranged as to afford a space in
47 the rear of each tier of cells, corresponding with the area described in the specification and claim in the patent of June 7th, A. D. 1859.

Ques. 6th. Please look at the second of said patents, and state how far the jail, which you have spoken of before, corresponds with the invention therein set forth.

Ans. The patent of December 20th, 1859, consists in the use of entire wall plates of iron having their edges closely abutting, and the two edges united by a joint strip secured to the two plates, respectively, by rivets countersunk upon the inside to the depth of the thickness of the plates. The cells in the Hamilton county jail are made of single and entire plates of iron, (that is, extending from floor to ceiling or top of the cell,) the edges of the plates abutting against each other, and held by a joint strip riveted in the manner described in patent of December 20th, 1859.

Ques. 7th. Please look at the third of said patents, and state how far the jail, which you have spoken of before, corresponds with the invention therein set forth.

Ans. This patent of February 21st, 1860, consists in employing a joint strip, by means of which the closely abutting plates which compose the walls of the cells are united, which is corrugated or grooved, affording a semi-cylindrical area opposite to the joint between the two plates, having, also, rivets by which the flat parts of the joint strip are secured to the two plates, respectively. The plates composing the cells are united by a joint strip similar in all respects to the joint strip described in the patent of February 21st, 1860. I refer in this sentence to the Hamilton county jail.

Ques. 8th. Please look at the fourth of said patents, and state how far the jail, which you have spoken of before, corresponds
48 with the invention set forth.

Ans. The patent of July 24th, 1860, consists in a construction and arrangement of plate-iron cells, separately from each other, with vertical spaces between cells on the same level, and horizontal spaces between cells arranged one above another. The specification, also, provides that the spaces between the cells may be filled with concrete, or any substance possessing the property of opposing the transmission of sound. The cells in the Hamilton county jail are arranged one above another in a regular series, with a horizontal space between each two cells. They, also, lap by each other in their horizontal arrangement, affording a space between that portion of the partitions of each which are opposite to each other. I would, also, say that some of the cells are arranged with entire sides opposite each other, with spaces between, corresponding with the spaces described in the patent of July 24th, 1860.

Ques. 9th. State whether you find any substantial difference or

differences in principle between the invention described in either of the above patents and the cells, as constructed and arranged in the Hamilton county jail; and if so, state in what that difference consists.

Ans. So far as relates to the points of features comprehended in the four patents herein named, and to corresponding points of features in the construction and arrangement of the cells in the Hamilton county jail, I regard them assentially the same in principle, and that there is no substantial difference between them.

Adjourned to Sept. 12th, at 9 o'clock, at same place.

49 Ques. 10th. Please look at exhibit B attached to the affidavit of Isaiah Rogers in this case, and state how far it represents the present plan of the Hamilton county jail, and how far it his progressed in completion.

Ans. The ground plan in this drawing of cells and central area, outside areas, and arrangement of pipes, is similar to that in the Hamilton county jail; the tiers of cells, four in height, are all in their places; the stairs in the central area are now being put up, and the floors in front of the respective tiers of cells are being laid.

Ques. 11. Look at exhibit "D," being the cell of sheet iron, now shown you, and state how it represents either or all of the actual sales in the Hamilton county jail?

Ans. The form and construction of this exhibit is similar to the cells in the Hamilton county jail, particularly the manner connecting the plates of iron forming the sides and ends, by corrugated joint strips, with countersunk rivets, and the top plates by T strips; with regard to the bottom, I have not had an opportunity of observing it; in all other respects they are each alike this exhibit.

Ques. 12. Please look at exhibit "E" with its twelve (12) cells, including "D," of which you have spoken, and state what the rough box "E" with those twelve (12) cells would represent?

Ans. That box and cells represents one of the radial wings, answering to "6," on exhibit "B," showing the ground plan of the cells in the extreme end of this radial wing, into the central area, and area in the rear corresponding with the arrangement of cells in the Hamilton county jail.

Ques. 13. Please look at exhibit "F," being the two plates
50 of iron, joined by the corrugated joint, and state what it will represent both in reference to complainant's patents and to the cells of said jail; specify also, what the rivets, countersunk and cut in two at one end of the exhibit represent and show?

Ans. That exhibit is a perfect representation of the patent of February 21st, 1860, in which the corrugated joint strip is employed; it also corresponds with the manner in which the side and end plates of the cells in the Hamilton county jail are joined together; all the rivets on the inside of the cells being reduced to the end of the iron plates, like the two rivets in the end of the exhibit; these rivets are

countersunk in the manner described in the patent of 20th December, 1859.

WM. CLOUGH.

Adjourned by consent until Friday, September 13th, 1861, at nine o'clock a. m., at same place.

I, D. K. Cady, jr., a notary public in and for the county of Hamilton and State of Ohio, do hereby certify that William Clough, was by me sworn to testify the truth, the whole truth, and nothing but the truth, and that the deposition by him subscribed, as above set forth, was reduced to writing by myself, in the presence of the witness, and was subscribed by the said witness in my presence, and was taken at the time and place in the annexed notice specified, that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit, and commenced at the time in the notice specified, and continued from day to day as above stated.

In witness whereof, I have hereunto set my hand and notarial seal at Cincinnati, this sixteenth day of September, A. D. 1861.

[SEAL.] D. K. CADY, JR.,
Notary Public, Hamilton Co., Ohio.

Notice.

United States circuit court, southern district of Ohio.

ENOCH JACOBS
vs.
51 THOMAS F. BAKER.

The defendant will take notice that on Tuesday, the eighth day of October, A. D. 1861, the complainant above named will take the depositions of sundry witnesses, to be used as evidence on the trial of the above cause, at the office of the clerk of the circuit court of Shelby county, in the town of Shelbyville, in the county of Shelby, in the State of Indiana, between the hours of eight o'clock a. m. and six o'clock, p. m. of said day, and that the taking of the same will be adjourned from day to day, between the same hours, until they are completed.

LEE & FISHER,
Attorneys for Complainant.

Service of the above notice is acknowledged, and proof of the official character of the officer before whom the said depositions may be taken is by agreement waived; also all exceptions in regard to time.

WORTHINGTON & MATTHEWS,
Attorneys of Defendant.

Depositions of sundry witnesses taken before me, Perry M. Green, a notary public within and for the county of Shelby, in the State of

Indiana, on the eighth day of October, 1861, between the hours of eight o'clock a. m. and six o'clock p. m., at the town of Shelbyville, in said county, pursuant to the annexed notice, to be read in evidence on behalf of the plaintiff in said action.

Dep'n J. N. Navin.

John N. Navin, of lawful age, being by me first duly examined, cautioned, and solemnly sworn, deposeth and saith as follows:

Ques'n 1st., by plaintiff. State your age, residence, and occupation.

Ans. Age, about 50 years; reside in Shelbyville, Indiana; original occupation, vetinary surgeon.

Ques. 2d. What has been your occupation since the year 1855?

Ans. I was a dry goods clerk in 1855. In the fall of 1855 I became deputy sheriff to sheriff Vanpelt, and continued in that occupation until the fall of 1858.

52 Ques. 3d. Of what county was Vanpelt, the sheriff, when you were acting as his deputy?

Ans. Shelby county, Indiana.

Ques. 4th. What has been your principal occupation since you ceased to act as deputy sheriff of Shelby county, Indiana?

Ans. I have kept a family grocery and leather store.

Ques. 5th. What knowledge have you, if any, of the time of the construction of the Shelby county jail?

Ans. The building of the jail was commenced in the year 1856, and finished in the year 1857.

Ques. 6th. By whom was the Shelby county jail built?

Ans. Edwin May.

Ques. 7th. Who made the contract for building the jail with Edwin May? and state if you can, when that contract was made.

Ans. The contract was made with the county commissioners, and was made early in the year 1856.

Ques. 8th. Is the jailor's residence connected with the jail building, and who first occupied said residence and had charge of said jail?

Ans. The east wall of the jail building constitutes the west wall of the jailor's residence, and I first occupied the jailor's residence, and had charge of the jail.

Ques. 9th. How long did you have charge of said jail?

Ans. From the summer of 1857 until the fall of 1858.

Ques. 10. State of what material the cells of the Shelby county jail are made, how many are there of them, and in what manner are they put together.

Ans. They are made of iron plates, and the cells are eight in number, the walls, divisions, and ceilings all being of the same material: there is no iron in the floors of said cells, the said walls and divisions rest on the general stone floor of the buildings, the plates of iron composing said walls, divisions, and ceilings, having their edges lapped one upon the other and riveted together with rivets, said

53 rivets being, as near as I can judge, from three-eighth to a half an inch in diameter; there is no appearance of any of the rivets being countersunk except a few about the doors.

Ques. 11th. State the size of the iron cells.

Ans. Six by eight feet on the floor and about eight feet high.

Ques. 12th. How are the iron walls and divisions of said cells secured to the stone floors?

Ans. They simply rest on the stone floor and are only secure by their own weight.

Ques. 13th. Look at exhibit "A," "I," "N," "N," and state what it represents.

Ans. It represents very correctly the ground plan of the Shelby county jail, wall marked "C" on said exhibit, being the division wall between the jail and jailor's residence; the entrance to the hall which surrounds the cells on three sides is through the wall "C," out of the jailor's residence; the rear of the cells farthest from the said entrance are close to the stone wall.

Ques. 14th. How are said cells entered?

Ans. By means of separate doors in each cell, opening out into the surrounding hall.

Ques. 15th. Look at exhibit "B I N N," and state what it represents.

Ans. It represents the manner in which the iron plates (about $\frac{1}{4}$ inch thick) comprising the walls, ceilings, and divisions of the cells in the Shelby county jail are riveted together, though the work is done much more roughly than is represented in this exhibit; the largest part of the rivets in all the outer walls of the cells have their heads on the inside of the inclosure with their riveted ends outward; the riveting is done very roughly, some of the rivets being button setted, but a majority of them being hammered down without being either flush or button-setted; they are about four inches apart from centre to centre; I cannot discover that any of the rivet holes
54 in the plates have ever been countersunk upon either the inside or the outside of the enclosure; I have seen some of the holes where the rivets were cut off that were not countersunk.

Ques. 16th. State whether or not any of the joints of the iron plates composing the enclosure of said cells have their edges abutted together with a bar lapped on the outside of the seam and secured with two rows of rivets?

Ans. There is no such joint in the whole enclosure.

Ques. 17th. State whether or not there has been any change made *made* involving the reconstruction of said cells since the were first built?

Ans. There has been none.

JOHN N. NAVIN.

Dep'n S. L. Vanpelt.

Squire L. Vanpelt, of lawful age, being by me first duly examined, cautioned, and duly sworn, deposeth and saith as follows:

Ques. 1st. State your age, residence, and occupation.

Ans. Age, 42 years; residence, Shelbyville, Indiana; am auditor of Shelby county, Ind.

Quest. 2d. What was your occupation in the early part of the year 1856, and how long did you continue in that occupation?

Ans. I was sheriff of Shelby county, Ind., and continued in said office until the 4th day of November, 1858.

Quest. 3d. At what time did you enter upon the duties of the office of auditor of Shelby county, and have you continued to hold said office until the present time?

Ans. On the 1st day of September, 1859, and have continued in the same until the present time.

Quest. 4th. What knowledge have you, if any, of the time of the construction of the Shelby county jail, and by whom was said jail constructed?

Ans. The contract was let by the county commissioners to Edwin May, on the 8th day of March, 1856, and was completed by the said May sometime in the summer of 1857, according to my best recollection.

55 Ques. 5. State of what material the cells of the Shelby county jail are made; how many of them there are, and the manner in which they are put together.

Ans. The cells are made of iron plates, (I take them to be wrought iron,) about three-sixteenths of an inch in thickness, I think. Only the walls, divisions, and ceilings are of iron, the floors being made of stone. The cells are eight in number, six by eight feet on the floor, and seven or eight feet high. The plates of iron, composing the walls and divisions, together with the ceilings, have their edges lapped one over the other, and are riveted together with one row of about half-inch rivets. There is no appearance of any of the work being countersunk, and I do not believe any of it is countersunk.

Quest. 6. Look at exhibit "A I N N," and state what it represents.

Ans. It correctly represents the ground plan of the outer walls and cells of the Shelby county jail.

Question. 7. Look at exhibit "B I N N," and state, if you can, what it represents.

Ans. It represents the manner in which the iron plates, composing the walls, divisions, and ceilings of the cells of the Shelby county jail, are riveted together.

Quest. 8. On which side of the outer walls and ceilings, composing the enclosure of said cells, are the heads of said rivets?

Ans. On the end of the wall, as you enter the jail, the heads are on the outside; the walls composing the two sides and ceilings of the enclosure have the heads of the rivets mostly on the inside, and the riveted ends outside.

Quest. 9th. State how the riveting is done.

Ans. Some of them are hammered down roughly, others are button-setted; but few of them are riveted flush.

Quest. 10. State whether there has been any change made
56 in the Shelby county jail, involving the reconstruction or alteration of the cells since they were first completed.

Ans. There has been none, so far as the construction of the cells are concerned; but at first the hall went all the way around them, afterwards they were moved back to the wall, as shown by exhibit "A I N N."

SQUIRE L. VANPELT.

I, Perry M. Green, a notary public within and for the county of Shelby, and State of Indiana, do hereby certify that John N. Navin and Squire L. Vanpelt, were by me severally sworn to testify the truth, the whole truth, and nothing but the truth, and that the depositions by them respectively subscribed, as above set forth, were reduced to writing by myself, in the presence of the witnesses respectively, and were respectively subscribed by said witnesses in my presence, and were taken at the time, and at my office in the town of Shelbyville, Indiana, to which place the taking of said depositions had been adjourned, by due notice given by me, after the hour for taking said depositions, at the place mentioned in the annexed notice specified; that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit.

Witness my hand and notarial seal, this eighth day of October, 1861.

[N. P. SEAL.] PERRY M. GREEN.

57 *Notice.*

Circuit court of the United States, southern district of Ohio.

ENOCH JACOBS
vs.
THOMAS F. BAKER.

The defendant will take notice that on Tuesday, the fifteenth day of October, A. D. 1861, the complainant above named will take the depositions of sundry witnesses, to be used as evidence on the trial of the above cause, at the clerk's office of Floyd county, Indiana, at the town of New Albany, in the county of Floyd, in the State of Indiana, between the hours of eight o'clock a. m. and six o'clock p. m. of said day, and that the taking of the same will be adjourned from day to day, between the same hours, until they are completed.

LEE & FISHER,
Solicitors for Jacobs.

Service of the above notice is acknowledged.

WORTHINGTON & MATTHEWS,
Attorneys of Defendant.

Depositions of sundry witnesses taken before me, J. G. Woodbury, a notary public in and for Floyd county, and State of Indiana, on the 15th day of October, A. D. 1861, between the hours of eight o'clock a. m. and six o'clock p. m., at the clerk's office in said county,

pursuant to the annexed notice, to be read in evidence on behalf of the plaintiff in said action.

Deposition of Dudley D. Byrn.

Dudley D. Byrn, of lawful age, being by me first duly examined, cautioned, and solemnly sworn, deposeth and saith:

Quest. 1. What is your name, age, occupation, and where do you reside?

Ans. My name is Dudley D. Byrn; am forty-seven years of age; reside in the city of New Albany, in the State of Indiana, and am now engaged in the office of auditor of Floyd county. I have served as auditor for the period of six years.

Ques. 2. What knowledge have you, if any, of the building of the iron work of the Floyd county jail; and when, and with whom was the contract made for building said iron work?

58 Ans. I advertised for sealed proposals for this iron work from 1st day of February, 1858, to 27th day of the same month, inclusive, and the work was let to Thomas F. Baker, of Cincinnati, Ohio. His bond was filed on the 27th day of March, A. D. 1858. His contract then dates on the said 27th day of March, 1858, and the work was to be completed on 1st day of September, 1859.

Quest. 3d. What knowledge have you, if any, of said iron work being commenced and completed by said Thomas F. Baker, of Cincinnati, within the times above named?

Ans. I know that said work was commenced and completed by said Thomas F. Baker between the times referred to.

Quest. 4th. Look at the paper marked "A D D B," and state, if you can, what it is.

Ans. I have looked at the paper marked "A D D B," and know it to be a true copy from the original specifications for the iron work for the Floyd County Jail, as let by the county commissioners of said county, to Thomas F. Baker of Cincinnati, Ohio, to build by contract, March 27th, 1858.

Quest. 5th. Describe, as near as you can, the manner in which the joints ebracing the enclosure of said jail are made.

Ans. They are put together with rivets, I am not able to answer more particularly.

Ques. 6th. Has there been any change in said iron work involving the reconstruction of the cells, or any other change since they were first completed, if so, what?

Ans. There has been no change to my knowledge.

DUDLEY D. BYRN.

At this point the further taking of these depositions was adjourned until to-morrow, October the sixteenth, 1861, at eight o'clock a. m., when they will be resumed at the law office of Durham & Woodbury, in said city of New Albany, Ind.

J. G. WOODBURY, *N. P.*

59 *Deposition of Thos. T. Cox.*

Thomas T. Cox, of lawful age, being by me first duly examined, cautioned, and solemnly sworn, deposeth and saith:

Quest. 1. State your age and occupation, and how long you have been engaged in that occupation.

Ans. I am fifty-five years of age, and am by occupation a boiler maker. I commenced that business in 1825, and have followed it ever since, never having been unemployed in that business more than one year.

Quest. 2nd. State your place of residence, and how long you have resided in said place.

Ans. I reside in New Albany, Floyd county, Indiana; came here in 1825, and have been engaged in boiler making ever since.

Quest. 3d. What knowledge have you, if any, of the construction of the iron work of the Floyd county jail; and when, and by whom was said iron work built?

Ans. It was built by Thomas F. Baker, of Cincinnati, Ohio. It was commenced in 1858, and compled, I think, in the fall of 1859. It is made of wrought plate-iron, about one-fourth ($\frac{1}{4}$) of an inch thick, it being three stories high, twelve cells to each story, the cells placed back to back, with doors opening outward upon a surrounding hall. The floors, ceilings, divisions, and outer walls of said cells are made of the same material, being wrought plate-iron, one-fourth of an inch thick.

Quest. 4. Describe the manner in which the plates of iron, comprising the outer walls of said jail are put together.

Ans. The plates of iron, composing the outer wall, have their edges abutted together, and the same covered, on the outside, with an iron bolton, three inches wide, and about one-fourth of an inch thick, and riveted with half-inch rivets, in two rows, about four inches apart, lengthways of the seam; fully one-third of the
60 rivets have their heads on the inside of the enclosure, and the riveted end on the outside. There is no appearance of any countersinking of the holes, either upon the inside or outside of the enclosure. All the floors and ceilings of the cells of said jail have the edges of the plates lapped one upon the other, about an inch and three quarters, as near as I can judge, and riveted together with one row of rivets. There are none of the floors or ceilings of said jail that have abutted joints, as I have made a critical examination of the same.

Quest. 5. Examine the two pieces of iron marked "x," and the three pieces of iron, marked "11" and state what they are.

Ans. The two that are marked "x" are parts of a single rivet, that had its head upon the inside of the enclosure, and its riveted end outward. The head of the rivet was cut off on the inside, and the rivet driven out. The hole, out of which this rivet was taken, has no appearance of any countersink upon the inside of the inclosure. On the outside of inclosure the rivet appears larger, close to the riveted part, than it does in the center, between the bolton and the

plate; though I think that might occur in a parallel hole, as the rivet will always fit the hole closer to the riveted end than in the centre. This rivet does not appear to have filled the hole solid where the bolton and the plate joined; and, therefore, to my mind, furnishes no evidence of the hole being countersunk, even upon the outside, where it was riveted. The three pieces marked "11," are all parts of the same rivet, having the head upon the outside, and the riveted end inside. The hole, out of which the rivet was taken was a parallel hole, as near as it could be made.

61 The piece composing the rivetted, end marked "●," fell off while the head of said rivet was being cut. At the request of the plaintiff I made a critical examination of the said Floyd county jail, and took out these rivets myself, with great care, for the purpose of seeing the manner in which the joints were put together.

Quest. 6. How were the holes in the plates of iron, composing said jail made?

Ans. They have the appearance of being made with an ordinary punch and die; the punch very nearly filling the die. I think they could not have been made with a loose fitting punch.

Quest 7. Will a punch and die, such as is described in your last answer, countersink?

Ans. It will not.

Quest. 8. Look at Exhibit "B T T C," and state what it represet?

Ans. It represents a ground plan of the iron cells in the Floyd county, Indiana, jail. The measurements indicated in said plan are correct, for I saw them made.

Quest. 9. Has there been any change or alteration of said cells, since they were constructed; if so, what?

Ans. There has been no change or alteration in relation to the cells to my knowledge. There was a portion of the iron ceiling of the hall, which had the rivets put in loose without riveting, out of which five prisoners escaped. I repaired that defect. Had there been any change in the cells, I should have been likely to know it as I have resided in this place ever since the jail was built.

THOS. T. COX.

Notary's fees, $3 00; postage, 20 cts.; witness, T. T. Cox, $1.50; D. D. Byrn, 75 cts.; total $5 45.

I certify that the above fees were paid by the plaintiff in this cause.

J. G. WOODBURY, *N. P.*

STATE OF INDIANA, *Floyd County, ss:*

I, J. G. Woodbury, notary public within and for said State and county, do hereby certify that Dudley D. Byrn and Thomas

62 T. Cox were by me first severally sworn to testify the truth, the whole truth, and nothing but the truth, and that the depositions by them respectively subscribed, as above set forth, were

reduced to writing by myself in the presence of the witnesses respectively, and were respectively subscribed by said witnesses in my presence, and that the deposition of said witness Byrn was taken at the time and place in the annexed notice specified, when the further taking of said depositions was adjourned until the next day, Oct. 16th, 1861, at eight o'clock A. M., when they would be resumed at the law office of Durham and Woodbury in the city of New Albany, Floyd county, Indiana, at which time and place the deposition of said Cox was taken; that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit; that the paper hereunto attached marked "A D D B," is the one shown to witness Byrn, and referred to in the fourth question and answer of his deposition; that the paper hereunto attached marked exhibit "B T T C" is the one shown to witness Cox, and referred to in the eighth question and answer of his deposition; that the several pieces of iron rivets hereunto attached marked "x" and "11" respectively, are the ones shown to witness Cox, and referred to in the fifth question and answer of his deposition.

In witness whereof, I have hereunto set my hand and affixed my notarial seal this 16th day of October, A. D. 1861.

[N. P. SEAL.] J. G. WOODBURY, *Notary Public.*

63 "A D D B.

"The cells to be of iron three stories high, 12 to each story. In the jail there will be 36 cells put up. The body of the cells to be made of sheet iron ¼ of an inch thick. Each cell will be five feet wide, eight feet long, and seven feet high. The plates of boiler iron ¼ inch, placed upright, extending the height of the cells, without a cross joint or piecing, the plates on the sides, top, and bottom to be lapped 2 inches, and riveted together with round head rivets, 4½ inches from centers."

I hereby certify the above to be a true copy from the original specifications for the iron work for the Floyd county, Indiana, jail, as let by the county commissioners of said country to Thomas F. Baker, of Cincinnati, Ohio, to build by contract, March 27th, 1858.

DUDLEY D. BYRN.

[Here follows map marked page 64.]

65 *Notice.*

Circuit court of the United States, southern district of Ohio.

ENOCH JACOBS
vs.
THOMAS F. BAKER.

The defendant will take notice that on Saturday, the 19th day of October, A. D. 1861, the complainant above named will take the depositions of sundry witnesses, to be used as evidence on the trial of the above cause, at the clerk's office of Bureau county, Illinois, at

the town of Princeton, in the county of Bureau, in the State of Illinois, between the hours of eight o'clock a. m. and six o'clock p. m. of said day, and that the taking of the same will be adjourned from day to day, between the same hours, until they are completed.

LEE & FISHER,
Solicitors for Jacobs.

Service of the above notice is acknowledged.

WORTHINGTON & MATTHEWS,
Attorneys for Defendant.

Depositions of sundry witnesses taken before me, Wm. Hall Jenkins, a notary public for the town of Princeton, in the county of Bureau, and State of Illinois, on the nineteenth day of October, A. D. 1861, between the hours of 8 o'clock a. m. and 6 o'clock p. m., at the office of the county clerk of Bureau county, at the town of Princeton, in the county of Bureau and State of Illinois, pursuant to the annexed notice, to be read in evidence on behalf of the plaintiff in said action.

Deposition of J. W. Huntington.

Joseph W. Huntington, of lawful age, being by me first duly examined, cautioned, and solemnly sworn, deposeth and saith, in answer to the several interrogatories propounded to him by the plaintiff, in the above-entitled, cause, as follows, to wit:

Quest. 1. State your age, residence, and occupation; and how long you have been engaged in that occupation.

Ans. I am thirty-two years of age; my residence is Princeton, Bureau county, Illinois; my occupation is blacksmith and machinist; and have been engaged in that occupation sixteen years.

Quest. 2. How long have you resided in Princeton aforesaid, and have you been engaged in that business during your residence in Princeton?

Ans. I have been a resident of the town of Princeton for eight years, and during six years of that time I have been engaged in the business in the said town.

Quest. 3. What knowledge have you, if any, of the construction of the iron work in the Bureau county jail, as to the time of its construction, and by whom said iron work was put up?

Ans. It was constructed in the latter part of the year 1855. David Lloyd, of Laneville, was one of the contractors, and had the principal management of the work; further I cannot say. The iron work was done by parties from Cincinnati, Ohio. I do not recollect their names, but I was employed by them to work on said iron work.

Quest. 4. Look at exhibit "A J W H," and state what it represents.

Ans. It is a fair representation of the ground plan of the Bureau county jail. There are 8 cells, placed back to back, with the doors opening outwards upon a surrounding hall; they are several feet high. The measurement of the halls as there put down is correct;

they would not vary from that measurement over an inch, more or less.

Ques. 5. State of what material said cells are made?

Ans. They are made of light wrought-iron plates about three-sixteenths of an inch thick, so far as the floors, ceilings, divisions, and two end walls are concerned. The two fronts marked "B," on exhibit "A J W H," are of lattice work, made of bar iron $\frac{3}{8}$ inch by $1\frac{1}{2}$ inch or thereabouts.

Quest. 6. Describe particularly the manner in which the plates of iron composing said divisions, ceilings, and end walls are joined together.

67 Ans. The floors, ceilings, and divisions have the edges of the plates of iron composing them lapped one upon the other about two inches, and are rivetted together with one line of about $\frac{3}{8}$ in. rivets. In the ceilings the heads of the rivets are on the inside of the enclosure; in the floors the heads of the rivets are on the underside. The plates of iron composing the two end walls of the cells marked "A," in exhibit "A J W H," have their edges abutted together, with a bar of iron about $1\frac{7}{8}$ inches wide and about $\frac{3}{16}$ inches thick lapped over the seams on the outside, and rivetted with two rows of rivets about five inches, apart on an average, measuring lengthwise of the seams. The heads of the rivets in the end walls marked "A," exhibit "A J W H," are on the outside of the enclosure with the rivets inwards.

Quest. 7. Look at the three pieces of iron marked "A" with ink, and also with a straight chisel-mark, and state what they are.

Ans. They are three pieces which composed an entire rivet, which I took out of one of the end walls of the cells in the Bureau county jail on last evening.

Ques. 8. What was the character of the hole out of which the said rivet was taken.

Ans. The holes in the original wall and in the outside lap plate, I should think, were originally drilled and consequently were parallel holes, but the hole in the wall plate and in the lap bar not coming exactly opposite to each other; they appear to have been drawn together by the operation of driving in a tapering punch from the outside, as the hole was larger next to the rivet head than it was on the inside of the enclosure.

Quest. 9. In your answer to the last question you say that "the hole was larger next to the rivet head than it was on the inside of the enclosure;" how then do you account for the swelled or enlarged appearance of the rivet next to the "button setted" or inside end of the rivet?

68 Ans. I account for that circumstance in this way; the hole being so much larger that the rivet, in rivetting down the button setted end, only so much of the hole was filled by the rivet as is close to the button set; the hole being large enough for the rivet to have passed through, from the inside to the outside, without at all decreasing its size at the button-setted end.

Quest. 10. Was the hole countersunk, or not, on the inside of the enclosure?

Ans. It was not, as can also be easily seen from the shape of the rivet, and from the fact that the rivet in that part coming between the wall plate and the lap bar is over $\frac{1}{16}$ of an inch smaller than the hole. Had the hole been countersunk on the inside of the enclosure, and had the rivet filled the hole all the way through the wall plate, the flare of the rivet would have been equal all around, whereas it is all or nearly all on the one side, leaving the other side of the rivet nearly straight.

Quest. 11. Do you consider this a fair sample of the rivetting in the end wall of said jail?

Ans. I think it is; I can see no difference in them. I think I could drive out half the said rivets in the end walls of said jail by setting a punch against the button-setted end on the inside without cutting the rivet with a chisel; the button-setted ends of most of the rivets being much smaller than the one marked "A" in my answer to question 7 in my deposition. The button-setted end of the rivet here referred to is one of the largest, smoothest, and best looking I could find.

Ques. 12. How came this button-setted end broken off from the rivet?

Ans. In cutting off the head marked "A," which is the opposite end of this rivet the button-setted end flew off about the first blow that was struck.

Quest. 13. Look at exhibit "B" and "C," and state what
69 they represent.

Ans. Exhibit "B J W H" is a fair representation of the manner in which the end walls of the cells of said jail are rivetted together; and exhibit "C J W H" is a fair representation of the manner in which the floors, ceilings, and divisions of said jail are rivetted together. In exhibit "B J W H," the rivetted ends of the rivets as shown are a fair average of the size of the rivetted ends of the rivets in said end walls; some might be a little larger whilst others were smaller. In some of them you could see the hole at the side of the button-set. I am satisfied that none of the holes were countersunk.

Ques. 14th. In your answer to question 3d, you said you were employed by the parties from Cincinnati who did the iron work to work on said iron work. What part of the iron work did you do?

Ans. I made some of the rivets and some spikes, and repaired some of the tools, and some other things, which I cannot now, from recollection, enumerate.

Quest. 15th. State whether or not, to your knowledge, there has been any change in the plate iron portions of said jail since said jail was first constructed?

Ans. There have been no change, but I have repaired some portions which were broken by a prisoner.

Quest. 16th. State the location of the jail in Bureau county, which is so often referred to in your deposition.

Ans. In the south part of the town of Princeton, in the county of Bureau and State of Illinois, nearly opposite to the court-house.

JOSEPH W. HUNTINGTON.

Deposition of J. V. Thompson.

Joseph V. Thompson, of lawful age, being by me first duly examined, cautioned, and solemnly sworn, deposeth and saith, in answer to the several interrogatories propounded to him by the plaintiff, as follows, to wit:

70 Quest. 1st. State your age and residence, and how long you have resided in said place.

Ans. My age is forty-six years; my residence is in Princeton, Bureau county, Illinois. I have resided 21 years in the county; the last 14 years of which time I have resided in Princeton, in said county.

Quest. 2d. State your occupation, and how long you have been engaged in that occupation.

Ans. Farming, more or less, for 21 years.

Quest. 3d. State what was your occupation from the year A. D. 1853 until the year A. D. 1857.

Ans. I served as county clerk and clerk of the board of supervisors of Bureau county during that time.

Quest. 4th. State what knowledge, if any, you have of the construction of the iron work of the Bureau county jail, and of the contract or contracts under which said iron work was constructed.

Ans. I know that the iron work of the Bureau county jail was constructed during the year A. D. 1855, under a contract with David Lloyd and Alvah Whitmarsh. I find from a bond made by said contractors, Lloyd & Whitmarsh, which I filed in my office when clerk, that Thomas F. Baker, whom I also saw here during the building of said iron work, was recognized by said board as the party who constructed said iron work. I have examined the contract and specifications relating to said iron work, but cannot answer specially, unless specially interrogated thereto.

Quest. 5th. What knowledge have you, if any, of the manner in which the cells of said jail were constructed as to materials, and the manner in which said materials were joined together?

Answer. The materials of which the floors, ceilings, divisions, and two end walls were constructed, should have been (had the
71 terms of the contract been complied with) constructed of ¼ inch wrought plate iron, but were in reality made of lighter iron, to wit, of about 3-16th inches wrought plate iron, for which deficiency the contractors were docked a considerable sum of money from their contract price, the amount of which sum so docked I do not recollect. The two long fronts of the cells in which the doors are placed, are constructed of bar iron, rivetted together where the bars cross each other, forming lattice work. I find by the contract, that all of the joints in said cells were to be fastened with ½ inch rivets; also, the lattice work of the doors and cells fronts were to be rivetted with ½ inch rivet. But no particular style of specified, neither were they to be countersunk.

Quest. 6th. Has there been any change made in the plate iron work of which said cells are made since the same were constructed?

Ans. Not that I am aware of.

Quest. 7th. Are you acquainted with Joseph W. Huntington, of Princeton; if so, what is his reputation as a mechanic?

Ans. I am acquainted with Joseph W. Huntington, and have been for some years. He has the reputation of being a skilful mechanic in all kinds of iron work.

J. V. THOMPSON.

STATE OF ILLINOIS, *Bureau county, town of Princeton, ss:*

I, Wm. Hall Jenkins, a notary public for said town of Princeton, in said county and State aforesaid, do hereby certify that Joseph W. Huntington and Joseph V. Thompson were by me first severally sworn to testify the truth, the whole truth, and nothing but the truth, and that the depositions by them respectively subscribed, as above set forth, were reduced to writing by myself in the presence of the witnesses respectively, and were respectively subscribed
72 by the said witnesses in my presence, and were taken at the time and place in the annexed notice specified; that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit, and commenced at the time in the notice specified and finished on the same day previous to the hour of six o'clock p. m.

In testimony whereof, I have hereunto subscribed my name and affixed my notarial seal, at Princeton, in said county, this 19th day of October, A. D. 1861.

[N. P. SEAL.] WM. HALL JENKINS,
Notary Public.

Notaries' fees, 2,250 words, at 20c. per 100, $4 50; certificate, 25c.; seal, 25c.; sw'g two witnesses, 10c.=$5 10. Witnesses: J. W. Huntington, (expert,) $2 50; J. V. Thompson, $1 00=$3 50+ $5 10=$8 60. Paid by plaintiff, E. Jacobs.

WM. HALL JENKINS, *N. P.*

(Here follows map, marked page 72)

73 (Here follows map, marked page 73.)

Exhibits "A, J. W. H.," "B, J. W. H.," and "C, J. W. H.," referred to in Joseph W. Huntington's deposition.

WM. HALL JENKINS, *N. P.*

Notice.

United States circuit court, southern district of Ohio.

ENOCH JACOBS
vs.
THOMAS F. BAKER.

The defendant will take notice, that on Thursday, the 14th day of November, A. D. 1861, the complainant above named will take the

depositions of sundry witnesses, to be used as evidence on the trial of the above cause, at the office of the county clerk of the courts of Dearborn county, in the town of Lawrenceburg, in the county of Dearborn, in the State of Indiana, between the hours of eight o'clock a. m. and six o'clock p. m., of said day, and that the taking of the same will be adjourned from day to day, between the same hours, until they are completed.

LEE & FISHER,
Attorneys for Complainant.

Service of the above notice is acknowledged, and proof of the official character of the officer before whom the said depositions may be taken, is by agreement waived.

WORTHINGTON & MATTHEWS,
Attorneys for Defendant.

Depositions of sundry witnesses taken before me, Daniel S. Major, a notary public, within and for the county of Dearborn and
74 State of Indiana, on the 14th day of November, in the year 1861, between the hours of eight o'clock a. m. and six o'clock p. m., at my office in the town of Lawrenceburg, in said county, pursuant to the annexed notice, to be read in evidence on behalf of the plaintiff in said action.

Deposition of James Egan.

James Egan, of lawful age, being by me first duly examined, cautioned, and solemnly sworn, deposeth and saith, in answer to interrogatories, as follows, to wit:

Quest. 1st. State your age, residence, and occupation.

Ans. I am twenty-seven; reside in 321 Sixth street, Cincinnati, Ohio, and am a housesmith by trade.

Quest. 2nd. What knowledge have you, if any, of the construction of the iron work of the county jail of Dearborn county, Indiana, situate in Lawrenceburg, in said county?

Ans'r. I saw the iron work of said jail on Sixth street, in Cincinnati, at the time of its construction, but did not notice it particularly at that time; at was at the shopyard of T. F. Baker, on Sixth street aforesaid. I have also examined said iron work of said jail more minutely this day, with reference to the material with which it is made and the manner of its construction, and find it is made of quarter inch wrought iron plates; the enclosure is twenty-four by thirty feet, and fifteen feet high, embracing twenty cells, ten on the lower story, being eight feet high, and ten on the second story, being seven feet high. The said enclosure also embraces an iron hall, ten by thirty feet and fifteen feet high.

Quest. 3d. Look at exhibit A, marked J. E., and state what it represents.

Ans. It represents the ground plan of said Dearborn county jail, and the measurements marked thereon are correct, as I have above stated.

75 Quest. 4. State the manner in which the joints in the enclosure of said jail are put together.

Ans. In my examination I find that the outer walls of the cells are lapped joints, and said joints are rivetted together with one row of about 7-16th rivets, the heads of which rivets all being on the inside of said enclosure, rivetted ends outwards. Both ends of the hall, the joints are abutted together, with the buttons all on the inside, said buttons being rivetted on the seam with two rows of rivets, the rivet heads being on the inside and the rivet ends outwards. In the ceiling of the hall the plates of iron have their edge abutted together with the lap bars, all on the underside, riveted over the seams with two rows of rivets, the rivet heads being on the lower side, with the riveted end upper or on top. The ceiling of the cells all have lap-joints, with the rivet heads on the underside, except where the joints come over the division of the cells, and these rivet heads are on the underside, but the joint is riveted to bars of angle iron.

Quest. 5. Look at exhibit B & C, marked J. E., and state what they represent.

Exhibit B represents the joints of the outer walls and ceilings of the cells as I have above described them, the rivet heads in all cases being on the inside of the enclosure. Exhibit C represents the joints composing the wall and ceiling of the hall, as I have above described them, with the buttons and rivet heads all on the inside of the enclosure. To the best of my belief, there are none of the rivet holes countersunk.

Quest. 6. State, if you can, about what time, and by whom, said jail was built?

Ans. To the best of my belief, it was the latter part of 1859 or first part of 1860, and was built by T. F. Baker, of Cincinnati, Ohio.

JAMES EGAN.

76 *Deposition of E. A. Coriger.*

Also, at the same time and place, Edward A. Coriger, of lawful age, who, being duly examined, cautioned, and sworn, deposeth and saith:

Quest. 1. State your age, residence, and occupation.

Ans. My age is thirty; I reside in Lawrenceburg, Indiana; and I am sheriff of Dearborn county, State aforesaid.

Quest. 2. State what you know relative to the time of commencement and completion of the iron work of the Dearborn county jail, in the county aforesaid, and by whom said work was done.

Ans. It was commenced in the spring or summer of 1859, and I would think the iron work was completed the last part of September, or first part of October, in 1859. It was built by T. F. Baker, of Cincinnati, Ohio.

Quest. 3. State whether or not there has been any change of said iron work since its completion by T. F. Baker; and if so, what has the change been?

Ans. There has been no change in the main structure; there has been a small change in one of the water pipes, and a small wicket gate in the front door.

EDWARD A. CORIGER.

STATE OF INDIANA, *Dearborn county, ss:*

I, Daniel S. Major, notary public in and for said county, do hereby certify, that I met at the office of the county clerk of the courts of Dearborn county, in the town of Lawrenceburg, in the county and State aforesaid, after 8 o'clock a. m. in the morning of the 14th of November, 1861. I then adjourned the taking of said depositions to my own office in said town of Lawrenceburg, and that then and there, between the hours of 8 a. m. and 6 p. m., James Egan and Edward Coriger were by me first severally sworn to testify the truth,
77 the whole truth, and nothing but the truth, and that the depositions by them respectively subscribed were as above set forth, were reduced to writing by myself in the presence of the witnesses respectively, and were respectively subscribed by the said witnesses in my presence, and were then, at the time and place in the annexed notice specified, with the exception of the change in the place as above stated; that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit, and that the annexed papers, marked exhibit A, B, & C, are the exhibits referred to by the said James Egan.

In testimony whereof, I have hereunto set my hand, and affixed my notarial seal this 14th day of November, A. D. 1861.

[SEAL.] DANIEL S. MAJOR, *N. P.*

Fees, witness:

James Egan	$1 00
Edward A. Coriger	1 00
Notary fees	5 00
Total	7 00

Paid by plaintiff.

DANIEL S. MAJOR,
Notary Public.

[Here follows map, marked page 78.]

79 Depositions of witnesses, taken before me, W. H. Baldwin, a notary public in and for the county of Hamilton, Ohio, to be used as testimony on behalf of the plaintiff in an action pending in the United States court for the seventh judicial circuit and southern district of Ohio, in which Enoch Jacobs is complainant, and Thomas F. Baker is respondent, at the time and place hereinafter mentioned. Present, G. M. Lee, counsel for complainant, and S. R. Matthews, counsel for respondants.

Deposition of G. D. Fry.

George D. Fry, being by me first duly affirmed, according to law, deposes and says, as follows:

Ques. 1. State your acquaintance with Enoch Jacobs, complainant, and what business, within your knowledge, he has been engaged in for the past fourteen years.

Ans. Some fourteen years ago, Mr. Jacobs was engaged in manufacturing iron pumps in this city. He was engaged in that for some two years; after that he engaged with Messrs. F. G. Gaylow & Sons, of Cincinnati, in iron railing and jail work business. He was engaged at that, for some length of time, perhaps two or three years; after that, I knew Mr. Jacobs, and he was engaged in similar business for the firm of Fowler, Ludlow & Co., in this city, and in the name of E. Jacobs & Co., in the iron railing and jail business; that continued down to June, 1855; after that, Mr. Jacobs and myself went into partnership, under the name of E. Jacobs & Co., engaged in the iron railing and jail work business. Our partnership continued from June, 1855, till February, 1859. He has continued the business since then, in the name of Valleau & Jacobs, till the present time.

Cross-examination by defendant's counsel:

Quest. 2. What kind of jail work were the firms, you mentioned above, engaged in making during the time Mr. Jacobs was connected with them?

Ans. Iron jail work.

Quest. 3. Iron-plate jails?

Ans. As far as my knowledge extended it was iron-plate work and other jail work.

Quest. 4. While you were in connection with Mr. Jacobs did you ever make a cell for jails composed entirely of iron plate?

Ans. We made what was called iron-plate cells. The doors were usually made of grating.

Quest. 5. Were the walls of those cells composed of entire iron plates?

Ans. They were composed of entire plates; that is, running from the top to the bottom of the cells.

Quest. 6. Were they plates of wrought or cast iron?

Ans. Wrought iron.

Quest. 7. Were the walls of the cells composed of one plate or more than one?

Ans. More than one.

Quest. 8. How were those plates joined together?

Ans. They were joined together by battens or strips of iron riveted together. The edges were usually abutted together, and a bar or strip placed on the bac, that is the outside of the cell; they were made so in part; there were different ways of constructing.

Ques. 9. How were those strips or battens fastened to the abutted plates?

Ans. With rivets.

Quest. 10. Were there two rows of rivets, one on each side of the same?

Ans. Yes.

Quest. 11. What do you understand by a countersunk hole?

Ans. By reaming it out after the hole is punched.

Quest. 12. In the iron-plate cells, made by Jacobs and yourself did you ever use the countersunk holes?

Ans. We did.

Quest. 12. Frequently or otherwise?

Ans. Frequently, I believe invariably.

Quest. 14. How long have you been in the business of maki iron-plate cells?

Ans. Since I was with Mr. Jabobs in 1855.

Quest. 15. Were iron-plate cells made in the manner you have described above, that is to say, by having the walls compos[illegible] of entire iron plates, with edges abutted and joined by a b[illegible] ten on the outside, riveted to the plates with countersu[illegible] rivets, made by Mr. Jacobs when you first went into business w[illegible] him?

81

Ans. I believe they were.

Quest. 16. Do you know of any other person or firm mak[illegible] jails of that description between the years 1855 and 1859?

Ans. I believe there were other firms engaged in making iron-plate jails; as to the particular way, I am not prepared to say, not having examind their work.

Quest. 17. Do you know when iron-plate jails were first constructed in that manner?

Ans. The first, to my knowledge, were constructed by Mr. Jacobs.

Quest. 18. Do you mean, by your last answer, that you know Mr. Jacobs was the first man who constructed jails in that manner?

Ans. I mean the first that I had knowledge of were made by Mr. Jacobs.

Quest. 19. Were jails constructed in that manner by yourself and Mr. Jacobs sold and used?

Ans. They were.

Quest. 20. Do you know who invented that method of making an iron-plate jail?

(Question objected to, from the fact that the patent must spe[illegible] for itself.)

Ans. I believe Mr. Jacobs invented those—such as we mad[illegible]

Quest. 21. Did any one ever claim to you to be the inventor of that method of making jails?

(Objected to on account of its irrelevancy.)

Ans. I believe not. beside Mr. Jacobs.

Quest. 22. Did Mr. Jacobs claim to you to be the inventor; If so, when first?

(Objected to for irrelevancy.)

Ans. I always understood from Mr. Jacobs that he was the designor or inventor of our method of jail work. He claimed, from our first going into business together, that he was the designor of our mode of jail work.

Quest. 23. Did you ever see any of the iron-jail work made by T. G. Gaylord & Sons during the time Jacobs was with him?

Ans. I do not now recollect.

Direct examination resumed:

82 Quest. 24. When did you first see a jail made of wrought-iron plates? Who made it, and where was it put up?

By consent of parties the further taking of this deposition is adjourned till Friday, the 22d day of November, A. D. 1861, at two o'clock p. m.

Friday, November 22d, 1861, met pursuant to adjournment. G. M. Lee, counsel for complainant, S. R. Matthews, counsel for respondent. not being present, the further hearing of the cause is adjourned til Monday, Nov. 25th, 1861, at two o'clock p m.

Monday, Nov. 25th, 1861, met and adjourned till Tuesday, Nov. 26, 1861.

Tuesday, Nov. 26th, 1864, met pursuant to adjournment, and the witness not appearing, adjourned till Wednesday, 27th Nov., 1861.

Wednesday, Nov. 27th, 1861, met pursuant to adjournment. Present, G. M. Lee, esq., for complainant, and S. R. Matthwes, esq., counsel for respondent.

Answer. I think the first iron plate I ever saw, was made at our shop. It was planned and put up under the direction of Mr. Jacobs. I think that was finished in 1857. It was put up at Urbana, Illinois.

Quest. 24. In answer to the 15th question, you speak of iron-plate cells consisting of entire wall plates, with edges abutted, joined by a batten on the outside, riveted to the plates with countersunk rivets, as made by Mr. Jacobs when you went first went into business with him. Please recall the time again, when you know of these abutted plates, joined by a batten countersunk rivets for the jail wall; state again when you know of their having been first made; state also who was the foreman of the shop when you and Jacobs were in partnership, and what was your department of the business.

Ans. In answering the former question, I was under the im-
83 pression that was the way they were put together, but upon reflection and examination I am satisfied I was mistaken. What I termed countersinking was made by a common hand ream in taking the bar edge off from the punch hole. I do not think I can answer definitely with regard to the time of the making of abutted work. James Egan was our foreman. My department was in the office attending to the books and the finances. Mr. Jacobs had charge of the mechanical part of the work, and the details were carried out by him, or the foreman under his direction. I was not an iron worker, and paid but little attention to the details of the work.

Quest. 25. Can you state whether entire wall plates abutted, united by a batten, having countersunk rivets, for a jail, were made while you and Mr. Jacobs were in partnership; and if not, state, in that connection, what you remember about Mr. Jacobs getting up a model embodying those features, for the purpose of patenting them, about the time you and he dissolved partnership?

Ans. I cannot state that entire wall plates were made in that way, while Mr. Jacobs and I were together. I recollect Mr. Jacobs was getting up a model about that time, embodying the work of that description, or rather the abutted plates and countersunk rivets, for the purpose of patenting the same. The countersunk work represented in that model, and the work I have seen since, is different from the work we used to do.

Cross-examination resumed:

Quest. 26. In what respect is it different?

Ans. I am not a mechanic nor an iron worker. The mechanical part of the business was confined entirely to Mr. Jacobs, in whose skill I had all confidence. As I before stated, in regard to the
84 countersinking, it was a mere reaming out of the rough edge of the hole made by the punch—taking off the bar from the opposite side of the punch. The countersinking represented in Mr. Jacob's model, and the work I have since noticed, represents the countersinking in a different form. The countersink goes through the plate in a tapering form, I cannot precisely state the angle. I do not know as I can state anything definite with regard to any other alterations.

Direct resumed:

Quest. 27. State whether, when you and Jacobs were in partnership, the outer jail walls were in fact abutted at all; were they not lapped?

(Objected to as leading.)

Ans. From my best recollection, I think they were lapped.

Cross-examination by counsel for respondent:

Quest. 28. If the plates were lapped, what was the use of the batten?

Ans. I do not know as it was of any use.

Quest. 29. Since your cross-examination on the first day of the taking of these depositions, have you had any conversation with Enoch Jacobs in relation to these matters? and if so. has your memory been refreshed with relation to them by anything that he has said?

Ans. I have had some conversation with Mr. Jacobs; after answering those former questions referred to, I was satisfied I was wrongly impressed in regard to the countersinking and the work, and I have since endeavored to refresh my memory so as to come as near as possible to the facts. My memory may, to some extent, have been refreshed by conversation with Mr. Jacobs, but mainly from my own investigation and taxing my memory.

GEORGE D FRY.

I, W. H. Baldwin, a notary public in and for the county of Hamilton and State of Ohio, do hereby certify that George D. Fry

85 was, by me, affirmed to testify the truth, the whole truth, and nothing but the truth, and that the depositions by him subscribed, as above set forth, was reduced to writing by myself in the presence of the said witness, and was subscribed by said witness in my presence; that this deposition was taken by agreement of the parties, commencing, in accordance with said agreement, on the 20th day of November, 1861, and continued, by adjournment from time to time by agreement, until it was finished, and that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit.

W. H. BALDWIN,
Notary Public. [SEAL.]

Fees, $5 00. Paid by plaintiff.

The following depositions were introduced in evidence on the trial of this cause, without being sealed up, &c., subject to such exceptions, &c., as might be taken:

Notice.

United States circuit court, southern district of Ohio.

ENOCH JACOBS
vs.
THOMAS F. BAKER.

The defendant will take notice, that on Thursday, the third day of October, A. D. 1861, the complainant above named will take the deposition of sundry witnesses, to be used as evidence on the trial of the above cause, at the office of Lee & Fisher, 53 west Third street, Cincinnati, in the county of Hamilton, in the State of Ohio, between the hours of eight o'clock a. m. and five o'clock p. m. of said day, and that the taking of the same will be adjourned from day to day, between the same hours, until they are completed.

LEE & FISHER,
Complainant's Solicitors.

Service of the above notice is acknowledged, and proof the official character of the officer before whom the said deposition may be taken is, by agreement, waived. Also, all exeeptions in regard to time.

WORTHINGTON & MATTHEWS,
Att'ys for Defendant.

86 Deposition of sundry witnesses taken before me, W. H. Baldwin, a notary public within and for the county of Hamilton, Ohio, on the 3d day of October, in the year 1861, between the hours of eight o'clock a. m. and five o'clock p. m., at the office of Lee and Fisher, in said county, pursuant to the annexed notice, to be read in evidence on behalf of the plaintiff in the said action.

Present: S. S. Fisher, esq., counsel for plaintiff, and S. R. Matthews, esq., counsel for the defendant.

Deposition of James Egan.

James Egan, being by me first duly sworn according to law, deposes and says as follows, to wit:

Quest. 1. What is your age, residence, and occupation?

Ans. My age is twenty-seven years; residence, 231 Sixth street, Cincinnati; occupation, housesmith.

Ques. 2. By whom are you employed? How long have you worked for him, and in what capacity?

Ans. Employed by Valleau & Jacobs. Have worked for Mr. Jacobs about five years as foreman.

Quest. 3. In what business have you worked for Mr. Jacobs?

Ans. The principal business is building iron jails.

Ques. 4. How many iron jails have you built for Mr. Jacobs?

Ans. Have built thirty-three.

Quest. 5. Of what kind of iron were they made?

Ans. Quarter-inch boiler plate.

Ques. 6. How were the joints fastened?

Ans. Previous to March, 1859, they were riveted every three inches, hot, without the countersink. They are now riveted, and since that time, with the countersink and batten on the outside.

Quest. 7. Where is the countersink?

Ans. On the inside of the plate or inclosure.

Ques. 8. How did you make the countersink?

Ans. Usually had them turned and fluted.

Quest. 9. With what kind of a tool were they made.

Ans. We can make a countersink with any kind of a lathe tool or hammer. We have to use a three-cornered file on our countersinks.

87 Quest. 10. What kind of a punch do you use for punching the holes in the iron?

Ans. An ordinary punch, such as is marked "x."

Quest. 11. With what sort of a die would you use the punch "x?"

Ans. Die marked "x."

Quest. 12. Look at the pieces of iron marked "x," "xx," and "xxx," and state if you know punched the holes in them.

Ans. I identify those as mine; I punched them.

Quest. 13. State with which punch and die the holes in each piece of iron were made.

Ans. All the holes were made with die "x." The piece of iron marked "x" with punch "x;" the piece marked "xx" with punch "xx;" the piece "xxx" with punch "xxx."

Quest. 14. State if the holes in the pieces "x" are countersunk.

Ans. No.

Quest. 15. State if those in the piece "xx" are countersunk, and what test, if any, you have applied to them.

Ans. I do not consider that they are countersunk. Two blows with an ordinary hammer and punch drove rivet marked ". ." out of the hole ". ."

Quest. 16. How many blows of a hammer would it take to drive a rivet out of piece "x?" Would it be more or less difficult?

Ans. To the best of my belief it would be the same.

Quest. 17. What trial did you make, if any, of a hole in the piece marked "xxx?"

Ans. I riveted the rivet marked ":" in the hole "...." I riveted them hot; I drove it out with four blows with an ordinary hammer and punch.

Quest. 18. What is the difference in effect between riveting hot and riveting cold?

Ans. Cold riveting has a tendency to make the rivet hard and brittle. The hot rivet does not make the rivet hard; it makes it softer, and anneals it.

Quest. 19. How is it as to the fit of the two rivets?

Ans. The hot rivet makes the best fit. The hot rivet makes a water or steam-tight joint; the cold rivet wont.

Quest. 20. State whether or not from your experience in jail
88 work, the ordinary punch used in iron-plate jail work countersinks the holes.

Ans. The punch that we use does not.

Cross question by defendant's counsel:

Quest. 21. How long have you been engaged in the making of iron-plate jails, and have you worked for any one besides Jacobs & Valleau; and if so, for whom?

Ans. I have been engaged about five years with Valleau and Jacobs in the making of iron-plate jails principally. I worked for Horton about six months prior to going to work for E. Jacobs & Co. I first went to the business in 1849—twelve years to the best of my belief that I have been in the business.

Quest. 22. Did you make an iron-plate jail as early as 1849?

Ans. No; the first I made was about the first of January, 1857, made for E. Jacobs & Co.

Quest. 23. Of what kind of iron were the plates composed?

Ans. Quarter-inch boiler plate.

Quest. 24. Did the plates in the side extend from top to bottom in the cells, and from side to side in the tops and bottoms?

Ans. They extended from top to bottom in the sides, and from end to end in the bottom and top.

Quest. 25. Were the plates lapped or abutted?

About the 4th of March, 1859, they were lapped; since that time they have been abutted.

Quest. 26. Who is the Jacobs referred to by you in speaking of E. Jacobs & Co., and Valleau & Jacobs?

Ans. He is the plaintiff in this case, and the same person in both cases.

Quest. 27. In working for E. Jacobs & Co., or Valleau and Jacobs, have you ever made a jail in which the plates were joined by a batten in the form marked No. 4 in exhibit K?

(Question objected to by counsel for plaintiff because the patent must speak for itself.)

Ans. No; I have never used that batten on a jail.

Quest. 28. Has Enoch Jacobs to your knowledge ever used, in making an iron-plate cell or jail, a batten of the form marked
89 figure "2" on exhibit "C," annexed to the original bill in this cause?

(Objected to for the same reason as above.)

Ans. Never to my knowledge.

Ques. 29. If he had, would you not have known it?

Ans. He could not have well used it without my knowledge.

Quest. 30. Has Enoch Jacobs ever made a jail in which a secret guard chamber or passage has been left between the iron cells and the exterior wall of the building, in the manner shown in figure "1," annexed to his patent, No. 24,307?

(Objected to for irrelevency by plaintiff's counsel, it being immaterial whether Jacobs has built such a jail or not, the patent being the only evidence of his invention.)

Ans. He has made many a one; as many as eighteen or twenty, more or less.

Quest. 31. Specify when and where those jails were put up.

Ans. In June, 1859, jail at Lake Village, Chicot county, Arkansas; July, 1859, at Searcy, White county, Arkansas; July, 1859, jail at McLeansboro', Huntington co., Illinois; September, 1859, jail at Paris, Edgar county, Illinois; September, 1859, Golconda, Pope county, Illinois; April, 1860, jail at Arkadelphia, Clark county, Arkansas; May, 1860, jail at Brownsville, Prairie county, Arkansas; June, 1860, jail at Jacksonport, Jackson county, Arkansas; August, 1860, jail at Lawrence, Douglas county, Kansas; July, 1860, Selima, Mercer county, Ohio; July or August, 1860, jail at Eldorado, Union county, Arkansas; April, 1860, jail Albion, Edwards county, Illinois, but it has no guard chamber; June, 1860, jail in Floyd county, Kentucky, no guard chamber; September, 1860, jail Neosho, Newton county, Missouri, to the best of my belief that has no guard chamber; September, 1860, jail at Wapello, Louisa county, Arnansas, two cells and no guard chamber; April, 1861, jail at Columbus, Muscogee county, Georgia, ger it is spelled here. That is all to my
90 knowledge that have a guard chamber.

Ques. 32. Did you not read your last answer from a written paper held in your hand; and if so, by whom was that paper written?

Ans. My last answer, "that to the best of my knowledge those were all that have a guard chamber," was from my own knowledge; the rest I read from a written paper written by C. M. Valleau.

Quest. 33. What is a countersunk hole?

Ans. I call a hole that is larger on one side than the other, forty-five degrees larger, a countersunk hole.

Quest. 34. Are the holes in plate "xxx" countersunk?

Ans. It is a countersink; but to the best of my belief it is not effective.

Quest. 35. In punching the holes in "xxx," which side was next the punch, and which next the die?

Ans. The small side of the hole was next the punch, and the large side next the die.

Quest. 36. In the hole marked "...." on plate "xxx," by what was the breakage produced?

Ans. By the burr on the rivet marked ":::" in driving it out.

Quest. 37. Do you know what the ordinary punch used in iron-plate jail work is in other establishments than that of Mr. Jacobs, or Jacobs & Valleau?

Ans. No; I do not, but have always learned from my fellow workman that punch and die marked "x" was an ordinary punch. Those men have fitted punches in other establishments.

JAMES EGAN.

Deposition of J. B. Elliott.

J. B. Elliott, of lawful age, being by me first duly sworn according to law, deposes and says, as follows, to wit:

Quest. 1. State your age, residence, and what acquaintance you have with mechanics and with patents for inventions?

Ans. My age is 34 years; my residence is Cincinnati; I have made the principles of mechanics a study for several years, and have acted as consulting engineer and solicitor of patents for the last four years?

Quest. 2. State whether or not you have testified as an
91 expert in patent causes in the United States court.

I have frequently.

Quest. 3d. Have you examined the jail now being constructed in Hamilton county; if so, where is said jail located, and when did you make said examination?

Ans. I have examined a jail located in Hamilton county, just east of the court-house, at the eastern end of Court street, some time since, and frequently during the progress of construction.

Quest. 4. Have you read a patent granted to Enoch Jacobs, June 7th, '59, for an improvement in the construction of prisons; also, a patent granted to said Jacobs on the 20th of December, A. D. 1859, for an improvement in iron-plate jails; also, a patent granted to said Jacobs, Feb'y 21st, 1860, for an improvement in joining plates of metal; also, a patent granted to said Jacobs, July 24th, 1860, for an improvement in iron prisons. If so, please state whether or not you are familiar with the specifications of said patents, and understand the inventions therein described and claimed.

Ans. I have read the patents referred to, and think I am familiar with the inventions therein described and claimed.

Ques. 5. Please look at the first of said patents, and state how far the Hamilton county above mentioned agrees or disagrees in principle with the invention therein set forth.

Ans. The first of said patents represents improvements of a secret passage or guard chamber around the outside of the iron cells, and between the cells and the masonry, which constitutes the surrounding enclosure. Similar passways I have found in the arrangements of

the Hamilton county jail, and believe them to be identical in principle with the claims made in this patent.

Quest. 6. Please look at the 2nd of these patents, and state how far the Hamilton county jail, above referred, agrees or disa-
92 grees in principle with the invention therein set forth.

Ans. The cells in the Hamilton county jail are formed of plates the height of the cell, having their edges closely abutted together, said edges being overlapped by a strip of similar metal, and fastened by rivets in countersunk holes, the inner ends of said rivets being flush with the inner faces of the cells, and, therefore, identical in construction with the improvements claimed in this patent.

Quest. 7. Please look at the third patent, and state how far the Hamilton county jail, above referred to, agrees or disagrees in principle with the invention therein set forth.

Ans. The joint in the 3d patent consists in forming the overlapping plate, referred to in the previous answer, with a rib or corrugation extending longitudinally, and in the middle of said plate, for the purpose of giving it strength, and forming tubes for the conveyance of sound, so that conversation among the prisoners may be detected when said tubes are connected with the guard chamber. This improvement I found used in the construction of the cells in the Hamilton county jail.

Quest. 8. Please look at the 4th patent, and state how far the Hamilton county jail, above referred to, agrees or disagrees in principle with the invention therein set forth.

Ans. The fourth patent calls for air spaces between the cells, both horizontally and vertically, and owing to the corrugations on the plates overlapping the seams between the plates forming the sides of the cells, and the bottoms of the same, similar spaces from necessity exist, consequently said spaces, as described in this patent, are seen in this jail.

Quest. 9. State whether you find any substantial differences or difference in principle between the inventions described in
93 either of the above patents and the cells as constructed and arranged in the Hamilton county jail; and if so, state what difference.

Ans. I have no recollection of any substantial difference.

Quest. 10. Look at "exhibit D," now shown you, and state how it represents in model the construction of the cells in Hamilton county jail.

Ans. I believe that it represents them correctly.

Ques. 11. Please look at "exhibit E," with its twelve cells, including "exhibit D," and state what it represents.

Ans. It represents the position and arrangement of two tiers of cells in one wing of the Hamilton county jail.

Ques. 12. Please look at paper marked "exhibit O," (Edwin Cox,) and state whether or not you find represented in said exhibit the improvement described in Jacobs' patent of June 7, 1859.

Ans. In said exhibit I find the ordinary passways to the cells, but not the secret passages, as described in said patent.

Quest. 13. Look at papers marked exhibit "P" and "U," (Edwin Cox,) and state whether you find in said exhibits the improvements described in Jacobs' patent of June 7, 1859.

Ans. I do not find them.

Quest. 14. Look at the paper marked exhibit "T," (Edwin Cox,) and state whether you find in said exhibit the improvement described in Jacobs' patent of June 7, 1859.

Ans. I find in said exhibits a space around the cells, that, so far as I am able to understand the drawings, does correspond with the secret passage described in said patent.

Quest. 15. Suppose a jail wall to be constructed of plate, running from top to bottom of the cells, their edges closely abutting, united by a batten or strip on the outside, a row of rivets on each side of the seam, the rivet holes being similar to those in the pieces of iron marked "x" and "x x," the rivets having their heads outside and their inner ends button set, state whether or not a
94 jail wall, so constructed, would contain the combination described and claimed in Jacobs's patent of December 20, 1859.

Ans. The claim of that patent being for a combination of certain specified parts is not, in my opinion, infringed by the combination presented in the question, from the fact that the riveting is substantially different.

Quest. 16. Suppose the ends of the trestle work of an iron bridge, having on each side a strip of angle iron, riveted to them, to be covwith a corrugated batten, similar to that shown in exhibit "F," would or would not such a construction be substantially the same as that described and claimed in Jacobs' patent of February 21, 1860. If the flanges of the corrugated strip were riveted to the pieces of angle iron on each side of the trestle work, the angle irons not being in contact.

Ans. Well, I think there is a substantial difference, from the fact that the claim of said patent calls for the edges of the plates to be closely abutted.

Quest. 17. How would it be if the joint covered by said strip were an ordinary lap joint?

Ans. It would still differ from the construction as claimed by said patent.

Quest. 18. State whether or not you find in "exhibit M," (Edwin Cox,) all of the elements claimed, in combination in the patent of Jacobs, dated December 20, 1859?

Ans. The same style of riveting is wanting, and also wall plates sufficiently large to extend from the top to the bottom of the cells; an element which, I conclude, involved in the claim as set forth by said patent.

(It being to late to complete the taking of this deposition to-night, the further taking of the same is hereby adjourned until Friday, the 4th day of October, A. D. 1861, at ten o'clock a. m.

W. H. BALDWIN,
Notary Public.

FRIDAY, *Oct. 4th*, 1861.

Met, pursuant to adjournment. Present, S. S. Fisher, esq.,
95 counsel for the plaintiff, and S. R. Matthews, counsel for the defendant.

Cross-examination by counsel for defendant:

Quest. 19. Suppose in the jail, represented by "exhibit T," the passage between the cells and external wall extends in debth to the bottom of the cellar, six or seven feet below the floor of the lowest tier of cells; that the whole depth of that space or passage is twenty-two or twenty-three feet; that there are no means of entrance to it except over the top of the highest tier of cells; that there are no galleries, stairs, or other means of getting down into the space, or of standing on a level with either tier of cells, would you regard that passage as substantially the same as the secret guard chamber, described and claimed in Enoch Jacobs' patent of June 7, 1859?

Ans. If there is no opportunity of the guard having any connection whatever with said passage or space, then it would not, in my opinion, present the improvements comprehended in said patent.

Quest. 20. Could a person standing on the floor of that space, supposing it to be six or seven feet below the floor of the cells, distinguish any conversation that might be passing between prisoners in adjacent cells?

That would depend very much upon the noise made by the prisoners in conversation, and the ability of a person standing at such a depth below the parties conversing to hear such conversation. It would be greatly varied by the character of the walls, and the quantity of moisture in the atmosphere.

Quest. 21. Suppose the walls of the cells to be of quarter-inch boiler plate, one wall of that thickness dividing the cells, would it be necessary for the prisoners to make a loud noise, in communicating with each other, either by speaking, or by a concerted system of raps?

Ans. My opinion, from what experience I have had in the
96 transmission of sound from metallic bodies, lead me to believe that very light raps would be distinctly communicated between the cells, conversation not being in actual contact with the walls, would require to be considerably louder.

Ques. 22. Could the very light raps, of which you speak, be heard by a person stationed at the bottom of the space marked "A" on exhibit "T," if that space is of the depth I have supposed when the atmosphere is in an ordinary state with respect to moisture?

Ans. If there is metallic contact from the joint where the noise is produced to this sub-cellar, or even to the depth in the cellar, which is on a level with the ear of the listener, then I think very slight noises would be conveyed and heard with considerable distinctness.

Ques. 23. Suppose that there are no pipes in contact with the cells running down into the space "A," and that the cells rest upon masonry, the floor of the cell being six inches or a foot above the ear of the listener, could the slight sound then be heard?

(Question objected to by counsel for plaintiff for irrelevancy, the existence of such pipes having been already shown by the proof.)

Ans. The sound would be, by the want of metalic contact with the ear of the listener, diminished somewhat; but there being not more than six inches, or one foot of space between the mettle of the cells and the ear of the listener, I think very slight noises would be communicated.

Quest. 24. In the spaces between the cells and the external wall, in the Hamilton county jail, are there any stairs, galleries, or other means of passing from the floor to a level with the 2nd, third, or fourth tier of cells?

97 Ans. I believe there are not.

Quest. 25. Is there not a layer of mortar between the cells, both horizontally and vertically; and does not that layer prevent the transmission of sound from the second, third, and fourth tiers of those cells, to a person standing on the floor of a space, so far as the transmission depends upon metalic contact?

Ans. There appears to be such a layer of mortar, but whether it separates the metalic contact or not, I am unable to say. If such a separation is effected, then sound, by metalic agency, will not be produced.

Quest. 26. Could the slight raps, of which you have spoken, made on the inside of the cells, in the 2nd, 3d, or 4th tiers, be heard by one on the floor, unless the sound were communicated by metallic agency?

Ans. The stratum of mortar between those cells being very thin, would not, in my opinion, prevent a communication of a sound equal to that made by a remer countersinking a half-inch hole in the cell walls?

Quest. 27. What is the thickness of that layer of mortar?

Ans. From the manner in which the tops and bottoms of the cells are constructed, I suppose there is actual metallic contact, and that the mortar only fills a space between the ribs, which are about an inch in depth, more or less.

Quest. 28. Do you know the inside dimensions of the corrugate on the battens used in the Hamilton county jail; if so, what are they?

Ans. I do not know them from actual measurement.

Quest. 29. Are they as great as that attached to "exhibit F;" if not, how much smaller are they?

Ans. Measuring from the middle of the corrugation to a point at right angles with the face of the walls, I suppose the dimensions to be about one-third less. The width of the corrugation is

98 about the same with the exhibit.

Ques. 30. Are the tops of the Hamilton county jail cells joined to the sides by a piece of angle iron, as shown in exhibit D; if so, what is the thickness of that angle iron?

Ans. My impression is, that the said sides are joined to pieces of angle iron, as in the exhibit; but I do not recollect with the reference to its thickness.

Quest. 31. Do the corrugated battens in the Hamilton county jail form a contivenous tube; if not, where and how are they interrupted, and what distance is there between the ends of the battens in the corresponding cells of each tier?

Ans. I believe they do not form a continuous tube, and are interrupted by the angle iron that sustains the side of the cell. As to the distance, I did not measure them, but I suppose them to be some two or three inches.

Quest. 32. How much of the inside of the corrugate is covered up by the angle iron?

Ans. I do not recollect how much of it, but my impression is, that it is about one-third, measured from the face of the walls.

Quest. 33. Are there any water pipes, or speaking tubes, or any means of conveying water, sound, or air, in the corrugations of those battens?

Ans. I did not observe any.

Ques. 34. Do you think it possible to use them for any of those purposes?

Ans. I think it would not be very practicable; still I think it possible.

Ques. 35. On the front of each cell, in the Hamilton county jail, are not the corrugates entirely closed by a piece of angle iron passing horizontally above them, on which the flooring of the galaries rest?

Ans. I believe there is a piece of angle iron extending across above the ends of the corrugations, which would prevent the
99 introduction of a straight tube down those corrugations; but my impression is, that it does not fit closely upon the ends of the corrugations.

Quest. 36th. Is the pannel in the Hamilton county jail cells, containing the window, accurately represented by the corresponding pannel in the model marked D?

Ans. I believe that the pannel in the Hamilton county jail or at least some of them are made of separate pieces, though I think the parts on each side of the window extend from top to the bottom of the cells, and with the exception of that and the holes underneath the window, this model represents the cell in principle.

Ques. 37th. Is the pannal in the cells in the Hamilton county jail containing the door, accurately represented by the corresponding pannel in the model "exhibit D"?

Ans. I cannot now call to mind any substantial difference.

Quest. 38th. Are the pannels referred to in the two last questions, what you call entire wall plates?

Ans. If the side pieces do not extend from the top to the bottom of the cell they would not in my opinion exhibit fully the plates as claimed in the letters patent.

Quest. 39th. If the pannels containing the door and window are not entire wall plates, are the walls of the iron jail containing them substantially the same as the improved iron walls for jails described and claimed in Enoch Jacob's patent, dated December 20th, 1859?

Ans. The said letters patent provide for openings to be made in said wall plates, and basing their claim upon the wall plates and their method of being joined together, I think it would be an error to reject the claim upon the entire wall because there might
100 be some difference in the construction of certain parts as described by the letters patent.

Ques. 40. Suppose the pannel, in the Hamilton county jail cell containing the window, is composed of five pieces, and arranged in the manner shown in exhibit "J. B. E. Window," would you say that that pannel was composed of an entire wall plate?

Ans. I would think not, as comprehended by said letters patent.

Ques. 41. Does not the window in each cell, in the Hamilton county jail, open on to the passage between the cells and the outer wall, and could not a prisoner in a cell see any one passing in that space or passage?

Ans. As at present shown, they could; but if they are closed with stained or ground glass, then they could not be seen.

Ques. 42. If closed with stained or ground glass, would not the shadow of a person passing them often be seen from the inside?

Ans. If the shadow fell upon the window it would.

Quest. 43. In "exhibit N," (Edwin Cox,) suppose the parts marked "cell plates," to be entire wall plates of wrought iron; the part marked "batten plate," to be a strip of wrought iron of same thickness of the plates, arranged and riveted in the manner shown in the exhibit, the rivet holes being countersunk on the inside, would there be any substantial difference between that method of making a jail wall, and the method described and claimed in Enoch Jacobs' patent of December 20, '59.

(Question objected to for irrelevency, no such combination having been shown to exist prior to Enoch Jacobs's patent of December 20, 1859.)

Ans. The question does not correspond fully with the exhibit, as as the inner ends of the rivet in the exhibit are buttoned, and
101 the countersinking would not be as substantial, as shown in the exhibit, as that represented in the letters patent.

Quest. 44. Do you mean then, that there is a substantial difference between the two?

Ans. In principle, I think, they are similar, but in practice I do not think the countersinking in the exhibit fully comprehends the idea represented in the letters patent as in the exhibit. I think the plates could be separated without cutting entirely through them, but as I have not tested, by experiment, whether these plates can be so separated or not, I am unable to determine.

Quest. 45. Suppose the countersinking is sufficient to prevent the wall plates from being separated unless they were cut entirely through, would the fact that the inner ends of the rivets were left projecting above the inside surface of the plates, make a jail wall, constructed as shown in "exhibit N," substantially different from that described and claimed in Enoch Jacobs' patent of December 20th. 1859?

(Question objected to, because it claims that a jail wall is shown in "exhibit N," which is not the fact.)

Ans. I think, in effect, they would be the same; but the letters patent so fully describes and represents the construction of the rivets that I think it difficult to determine whether such rivets as are referred to are comprehended in the claim.

Quest. 46. Suppose a jail built in the manner shown by "exhibit V," in which the part marked "1" is the external wall; the parts marked 3 are the cells composed of wrought-iron plates; the parts marked 2 are spaces between the cells of about 8 or 9 inches in width, the cells being on the same level, and state whether or not there is any substantial difference between a jail so con-
102 structed and arranged and the invention claimed in Enoch Jacobs' patent of the 24th of July, 1860.

Answer. I think there is a substantial difference, because, I think, said letters patent have reference to two or more tiers of cells, and that the horizontal spaces between the cells form as much of the subject matter as the vertical spaces.

Quest. 47. A series of cells, constructed and arranged as described in that patent, but in one tier only, would not there, in your opinion, be an infringement of the patent?

(Objected to, because no such cause of infringement is presented by the proofs; and also, because the construction of the patent is for the court, and not for the witness.)

Ans. It may be that such a construction may be decided to be an infringement, but by own opinion of the claim, and much of the description, would indicate two tiers to be required.

Quest. 48. Is there any other substantial difference between the jail supposed and jail patented the 24th of July, 1860, than the one you have named?

Ans. I do not know that I see any substantial difference.

Re-examination by counsel for the plaintiff:

Quest. 49. If, in the jail represented by "exhibit T," there is access to the top of the cells by door "Z," and from the top of the cells to the surrounding space "a," by ladder, would you say that the guard had no oppertunity of entering or examining space "a"?

(Question objected to as leading, and because it has been proved that there is no ladder or other means of getting down into the passage.)

Ans. No; I would say he did have such oppertunity.

Quest. 50. If, in the Hamilton county jail, the cells are con-
103 nected by iron water-pipes, which pass through the space between the cells and exterior walls, and extend from the top story to the bottom; state what facilities such pipes would afford for the communication of sound to a guard standing upon the principle or lower story, in said space?

Ans. I think that the sound produced in the upper cells would be very slightly diminished, having such facilities for transmission through the extent of space no greater than the length of the jail.

Quest. 51. Would it be more or less difficult for a guard upon the outside, in the space between the cells and the exterior wall, to hear conversations than for the prisoner in an adjoining cell to hear it?

Ans. I think there would be no difference in cells constructed with plates of the same thickness, if the hearers bore the same relation to the speaker with reference to distance.

Quest. 52. How would it be if a single plate separated the prisoner from the guard, and the double plate and a layer of mortar separated him from his fellow prisoner?

Ans. I think the guard would have as much better opportunity of hearing conversation, the listeners being the same relative position to the speaker, as the intervening structure diminishes the transmission of sound?

Quest. 53. What, in your opinion, is the most effective angle for a countersunk hole?

(Objected to as irrelevent by attorney for defendant.)

Ans. When the material filling the hole, and that through which the hole is made, are the same, the most effective angle would be one of 45°.

Quest. 54. What is the angle for the countersunk hole shown in Jacobs' patent of December 20th, 1859?

104 (Objected to for reason mentioned in No. 33, and also, that the patent should show, for itself, what the angle is.)

Ans. As represented in the drawings annexed to said letters patent, they are about an angle of forty-five degress.

Recross-examination by counsel for defendant:

Quest. 55. Are not the angles made by the sides of the countersunk hole, with the plan of the wall plate, as shown in the parts marked "I," in figures 4 and 5 of the drawings annexed to the patent last referred to, of different degrees from each other?

Ans. Without very accurate measurement there seems to be a slight difference.

J. B. ELLIOT.

Deposition of C. M. Valleau.

Charles M. Valleau, of lawful age, being by me duly sworn according to law, deposes and says, as follows:

Quest. 1. State your age, residence, and occupation.

Ans. My age is forty-five; my residence is Clifton, Hamilton county; my occupation is manufacturer of iron in Cincinnati.

Ques. 2. State if you are acquainted with the complainant, Enoch Jacobs.

Ans. I am.

Quest. 3. State if you know who invented the joint described in Jacobs' patent of February 21, 1860, and illustrated in exhibit "F."

Ans. The first joint I ever saw like that was made in the shop of Valleau and Jacobs, under the direction of E. Jacobs, during the early part of the year 1859.

Quest. 4. State whether or not you had any conversation with said Jacobs relative to the invention of said joint before his application for a patent therefor; if so, state what those conversations were.

Question objected to as incompetent.)

Ans. I did have frequent conversations with Mr. Jacobs in ref-

erence to his application for a patent. To the best of my recollection, Mr. Jacobs claimed that the device was new as applicable to the stregthening of a jail wall, and might be brought into use for that purpose where two or more tiers of cells were placed one above another.

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Quest. 5. Whose invention did he say it was?

(Objected to for same reason as last objection.)

Ans. He said that it was his own.

Quest. 6. When did he first describe the device to you, and claim to be the inventor of it?

Ans. I cannot give the precise date, but early in the year 1859.

Quest. 7. State whether or not Valleau and Jacobs made a bid for the iron work on the Hamilton county jail; if so, where was said bid made, and who made it?

Ans. Valleau and Jacobs did make a bid for the iron work on the Hamilton county jail, which was placed in the hands of the clerk of the county commissioners, on or about the first day of May, 1860; I made up the bid myself in the name of Valleau and Jacobs. I delivered it myself to a person who seemed to be acting as clerk for commissioners in the auditor's office at the court-house.

Quest. 8. State whether or not that bid was accompanied by any letter or paper.

Ans. Accompanying the bid, and enclosed in the same envelope was a notification to the commissioners in my own handwriting that Valleau and Jacobs claimed the exclusive rights under letters patent of the United States to build cells as shown by their plan.

(Counsel for defendant objects to so much of the answer as states the contents of a letter, the letter not being produced or shown to be lost.)

Quest. 9. State if you know where the original letter is, and what effort, if any, you have made to find it.

Ans. I do not know where the original letter is. On the 3d of October inst., I examined the records of the county commissioners, so far as they related to the bids for the jail work, but found no record of said letter, and was told by one of the commissioners that the letter had not been preserved.

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(So much of the answer as relates what was told the witness is objected to by counsel for defendants.)

Quest. 10. Look at "exhibit A," C. M. V., and state how far it is a correct copy of the letter you have referred to above.

(Objected to because it does not appear that search was made for the original in its proper place of deposit.)

Ans. This is a verbatim copy.

Cross-examination by counsel for defendant:

Ques. 11. Who is the Jacobs referred to by you in speaking of Valleau and Jacobs?

Ans. Enoch Jacobs, the plaintiff, in this suit.

Quest. 12. Were you partners at the time when the bid, signed Valleau and Jacobs, was put in?

Ans. We were partners to this extent, that Mr. Jacobs owned a contingent interest in my business.

Quest. 13. Did Enoch Jacobs know of or authorize the use of his name in making that bid?

Ans. He did know of it, and authorized it.

Ques. 14th. Had Mr. Jacobs seen the plan and specification for the Hamilton county jail before the bid was put in?

Ans. He had.

Quest. 15. How long before, to the best of your knowledge?

Ans. I cannot be positive as to the length of time; I think as long as ten days prior.

Quest. 16. When did Mr. Jacobs apply for his patent for the corrugated joint, like "exhibit F"?

(Question objected to because the application is the best evidence.)

Ans. Certainly during the year 1859, I think in November of that year.

Quest. 17. Have you any interest, legal or equitable, actual or contingent, in any of the patents referred to in the bill in this
107 cause, or in the proceeds of any of them, or are you in any wise interested in the event of this suit?

Ans. Mr. Jacobs owns all of these patents absolutely. By agreement with him, I am entitled to the use of them for the purpose of manufacturing jails under these devices in this city. I do not know that I have any interest in the result of this suit, except that I have become Mr. Jacobs' security for costs.

(The defendant's counsel objects to all the testimony given by this witness on the ground that his last answer shows that he has a direct interest in the event of this cause.)

CHARLES M. VALLEAU.

There not being sufficient time to complete these depositions today, the further taking of the same is, by mutual consent, adjourned till Saturday the 5th day of October, A. D., 1861, at 10 o'clock A.M.

W. H. BALDWIN, *Notary Public.*

SATURDAY, *October 5th*, 1861.

Met, pursuant to adjournment.

Present: S. S. Fisher, esq., counsel for complainant, and S. R. Matthews, esq., counsel for respondent.

Deposition of A. C. Stickney.

Albert C. Stickney, of lawful age, being by me first duly sworn according to law, deposes and says, as follows:

Quest. 1. State your age, residence, and what has been your occupation?

Ans. My age is thirty-two years; residence, Cincinnati; my occupation has been a machinist.

Quest. 2. By whom were you last employed as a mechinist, and how long did you work for him?

Ans. Was last employed by Valleau and Jacobs; worked for them

three years, and was employed by E. Jacobs & Co. one year before that.

Quest. 3. In what business were E. Jacobs & Co., and Valleau & Jacobs engaged during the time you were employed by them?

Ans. In manufacturing jails and iron railing, bank vaults, and such things.

Quest. 4. What part, if any, did you take in the manufac-
108 ture of iron jails?

Ans. I had the management of putting them up, and helped in the building of them.

Ques. 5. Of what material were they made?

Ans. Of wrought-iron plates and bars.

Ques. 6. How were the wrought-iron plates united?

Ans. They were abutted with a four-inch strip over the joints.

Ques. 7. How was the strip fastened to the plates?

Ans. A row of rivets on each side of the joint, three inches apart.

Ques. 8. Where were the heads of the rivets? and state whether the other end was button set or countersunk.

Ans. The head of the rivet was on the outside, and a countersunk on the inside.

Quest. 9. How did you make the holes in the iron plates?

Ans. They were punched with a die.

Ques. 10. With what kind of a punch and die?

Ans. With a punch and die similar to the one marked "x."

Ques. 11. State how far the punch and die "x" represent the ordinary punch and die used in jail work.

Ans. It looks exactly like the one we used. It represents very nearly, I should think, the ordinary die and punch used in jail work.

Quest. 12. State whether or not the punch and die "x" would countersink the hole.

Ans. I should say that it would not.

Quest. 13. How did you countersink the holes in making wrought-iron plate jails?

Ans. With a drill frame. After they were punched they were taken to a frame, and with a larger drill they were countersunk.

Quest. 14. Please look at the pieces of iron marked "x" and "x x," and state whether the holes in them are countersunk.

Ans. They are not.

Ques. 15. In putting up jails for Valleau and Jacobs, state how they were usually put up as to the arrangement of cells, halls, and walls.

Ans. They were put up with partitions between each cell,
109 with a hall in the center and cells on each side. There were outside plate walls; some of them nearly square, according to the size of the jail, though where there were more cells they were a good deal longer.

Quest. 16. State if these plate walls were the exterior walls of the building; if not, of what such exterior walls were built.

Ans. They were not the exterior walls of the building. The exterior walls were built of brick and stone.

Quest. 17. State whether are not any space was left between the plate walls in rear of the cells and the exterior wall of the jail-building; if yea, what was the width of such space?

Ans. There was a space. It varied from eighteen inches to five or six feet in width.

Quest. 18. About how many wrought-iron plate jails, having the cells arranged on each side of a central hall, with a space between the cells and the exterior wall of the jail building, have you put up for Valleau and Jacobs or for E. Jacobs & Co.?

Ans. I think I have put up about eight.

Cross-examination:

Ques. 19. Have you ever worked in the manufacture of iron-plate jails for any one beside E. Jacobs & Co., and for Valleau & Jacobs? If so, for whom?

Ans. I have not.

Ques. 20. In the jails made by them, how were the partitions between the cells made?

Ans. They were riveted to angle iron.

Quest. 21. How many thicknesses of plate composed the partition?

Ans. One thickness.

Quest. 22. Was the partition common to two cells?

Ans. Yes, sir, I believe it was.

Quest. 23. Was it the same in that respect when the cells were placed one on the top of the other?

Ans. It was.

Ques. 24. During the time that you were in the employ of E. Jacobs & Co., and Valleau and Jacobs, they never made a jail in which the cells were separated from each other by a space, say of an inch and a half or thereabouts, did they?

110 I could not answer that because I do not know, they might have built it when I was away.

Quest. 25. Did you ever know them to make a jail in which the cells were separated in that manner?

Ans. Yes, sir; single cells were put right side and side; as to the space between them, I cannot recollect; there was a small space.

Ques. 26. When was such a jail made by them, and where was it put up?

Ans. It was made in August, 1860. It was put up in Iowa; think it was in Wapello county.

Ques. 27. How many tier of cells were there in that jail?

Ans. One tier.

Ques. 28. Do you remember any other jails of the same kind put up by those parties?

Ans. Yes, they built a good many single cell jails; I never put them up.

Ques. 29. By single cell jails do you mean a jail that has but one cell?

Ans. One or more. They hardly ever have one cell; they seldom have less than from two to four or six.

Ques. 30. When did you first see a jail made by the parties named in which the cells were placed side by side, with a space between them?

Ans. The one I put up in Wopello.

Quest. 31. Did you ever see a jail made by these parties in which the plates were joined by a strip or batten of the form shown in that forming part of exhibit "F"?

Ans. No, sir; we never built any with a strip like that to my knowledge; a strip similar to that, but had not that oval.

Ques. 32. What is a countersunk hole?

Ans. A countersunk hole is a hole sunk with a drill of some kind, larger than the hole itself.

Ques. 33. If a hole is larger on one side of a plate than on the other, is it not a countersunk hole?

Ans. I should say not.

Ques. 34. Why not?

Ans. A hole can be made larger on one side by punching.

Ques. 35. As you understand it, then a hole is not countersunk, unless it is made with a drill of some kind larger than the hole itself. Is that your idea?

111

Ans. That is my idea.

Quest. 36. When did you leave the employ of Valleau & Jacobs?

Ans. The first of last May.

Quest. 37. In jails made by Valleau & Jacobs, or E. Jacobs & Co., in which the cells were separated from each other, did you ever know them to use more than one tier of cells?

Ans. No, sir; I do not know as I did, as far as I know.

Ques. 38. Do you know what kind of dies and punches are ordinarily used by manufactures of iron plate jails, except in Valleau & Jacobs' establishment?

Ans. I never used any on jail work except in their establishment.

Quest. 39. When did you first see an iron-plate jail in which the edges of the plates were closely abutted with a batten of the same material and thickness over the seam, riveted to the plates by rivets having their heads on the batten side, and the other ends countersunk?

Ans. The first one that I saw was when Valleau & Jacobs first entered into partnership. I do not recollect the year; think it was 1858 or 1859.

Quest. 40. What kind of a hole would the punch "x x x," used in connection with the die "x," make in quarter-inch boiler plate?

Ans. It would tear the hole on the under side. It would brake the under side out, and make it bigger than the punch itself?

Quest. 41. Is the side next the die the under side?

Ans. I should say it was not the under side.

Quest. 42. The hole, then, would be torn, as you call it, on the side next the punch, would it not?

Ans. No, sir; next to the die.

Quest. 43. Did you not say, in answer to question 40, that it would break out the under side, and make it bigger than the punch itself?

112 Ans. Yes, I said so; but the punch is not the under side. The die is the under side.

Quest. 44. The hole, then, made by the punch "x x x," with the die "x," would be larger on the side next the die than on the side next the punch, would it not?

Ans. I should say that it would.

Direct resumed by complainant's counsel:

Ques. 45. In your answer to question 34 you say that a hole can be made larger on one side by punching. To what kind of punch and die do you refer?

Ans. "x" die and "x x x" punch.

Quest. 46. Would you call "x" die and "x x x" punch the ordinary puch and die?

Ans. I would not.

A. C. STICKNEY.

Deposition of M. Goepper.

Michael Goepper, of lawful age, being first by me duly sworn to testify the truth, the whole truth, and nothing but the truth, deposes and says, as follows:

Quest. 1. What is your age, residence, and occupation?

Ans. My age is forty-four; residence, Cincinnati; county commissioner of Hamilton county, occupation.

Ques. 2. State if you was county commissioner at the time the bids were made for the iron work in the new Hamilton county jail?

Ans. I was.

Ques. 3. State if, at the time that the bid of Valleau & Jacobs was laid before the commissioners, any letter or notice was presented at the same time; and if so, what it was.

(Objected to as leading, and as to the latter part, because the contents of the letter or notice, if any, must be proved by the production of the original paper.)

Ans. A notice was presented at that time, that they claimed the exclusive privilege of building prison cells, such as advertised for, for the Hamilton county jail.

Quest. 4. State how far that notice was called to the attention of the commissioners.

Ans. It was read in open board.

113 Ques. 5. State whether or not Mr. Jacobs ever gave you verbal notice of the same claim.

Ans. Before the bids were opened Mr. Jacobs told me verbally that he had an exclusive right.

Cross-examination by counsel for respondent:

Quest. 6. At the time that Mr. Jacobs told you that he had an exclusive right, as stated by you in your last answer, did he specify the particular parts of the jail in which he had that right?

Ans. I think Mr. Jacobs told me it was in countersinking the rivets and fastening the plates; I think that was all Mr. Jacobs claimed.

Quest. 7. Did he claim that he had a patent for, or that he was the inventor of the method in which the cells are arranged, a vertical space being left between the cells on the same tier, and a horizontal space between cells on different tiers?

Ans. I have no recollection about that. Mr. Jacobs may or may not have said something about that space.

M. GOEPPER.

The further taking of these depositions is hereby adjourned until Monday, the 7th day of October, 1861, at 10 o'clock a. m.

W. H. BALDWIN,
Notary Public.

MONDAY, *Oct. 7th*, 1861.

Met pursuant to adjournment. Present, S. S. Fisher, esq., for the complainant, and S. R. Matthews, esq., counsel for respondent.

Deposition of H. Zimmerman.

Henry Zimmerman, of lawful age, being by me first duly sworn, according to law, deposes and says, as follows, viz:

Quest. 1. What is your age, residence, and occupation?

Ans. Age, is thirty-one years; residence, Cincinnati; my occupation, blacksmith and finisher.

Quest. 2. In what work have you been engaged for the past few months?

Ans. For the last few months I have been riveting jail cells for the Hamilton county jail.

Ques. 3. What kind of rivet holes were made in the plates for the cells of the Hamilton county jail?

Ans. Three-eighth holes.

114 State whether or not they are countersunk; and if so, on which side of the plate?

Ans. They are countersunk on the inside of the plate.

Ques. 5. How is the countersink made?

Ans. The punch is three-eighths and the die about a half an inch, not quite, so that it countersinks itself because the die is bigger than the punch, and it must countersink itself by punching it through, and the hole is countersunk with a countersink and brace around the edge.

Cross-examination by respondent:

Quest. 6. How deep is the hole countersunk by the punch and die above?

Ans. It is pretty much all the way through, not quite; as soon as it goes in it begins to countersink; it is countersunk from the inside.

Ques. 7. How much more than that is it countersunk by the countersink and brace?

Ans. It is countersunk off the inside the edge of the hole.

Ques. 8. Does not the countersink and brace merely remove the bur left by the punching, and make the edges smooth?

Ans. Well, that is all—to take the bur off from the edge.

Ques. 9. Does the hole in the plate marked "x x x x" represent the rivet hole as made in the cells of the Hamilton county jail?

Ans. That is the kind of a hole, except we countersink the bur off.

HENRY ZIMMERMAN.

The further taking of these depositions is hereby adjourned till Tuesday, the 8th day of October, 1861, at 10 o'clock a. m.

W. H. BALDWIN,
Notary Public.

TUESDAY, *Oct. 8th*, 1861.

Met, pursuant to adjournment. Present, S. S. Fisher, esq., counsel for complainant, and S. R. Matthews, esq., counsel for respondent.

Deposition of R. Selden.

John R. Selden, of lawful age, being by me first duly sworn to tell the truth, the whole truth, and nothing but the truth, deposes and says, as follows, to wit:

115 Quest. 1. State your business.

Ans. Clerk in the auditor's office of this county, usually denominated commissioner's clerk.

Quest. 2. Please look at exhibit "A," attached to the deposition of C. M. Valleau, being a copy of a letter of Valleau & Jacobs to the commissioners of Hamilton county, dated May 1, 1860; state whether you have examined the proper files and places for the original of said letter; whether you found it, and all you know about it.

(Objected to as leading, and also because it assumes that the exhibit referred to is a copy of the alleged letter, which has not been found.)

Ans. I have looked for it in every proper place in the files where such communications are placed, and cannot find it. I do not find it enclosed with the bid of Valleau & Jacobs, nor do I find it anywhere, nor do I know anything about it personally. The bids are all of them missing. This article is not recorded with the bids.

Cross-examination:

Ques. 3d. Have you any personal knowledge that the alleged original, of which the exhibit "A, C. M. V," purports to be a copy, was ever in existence or received by the county auditor, county commissioners, or other county authority?

Ans. Well, I don't know; I do not remember distinctly about it, whether I ever saw it or not; have heard so much said about it that my memory is confused about it. I know the paper is not to be found now.

Quest. 4. In the course of business in the auditor's and commissioners' office, would such a paper, if received with a bid for county work, be recorded with the bid; and is there any record of such paper as the exhibit referred to?

Ans. It should have been recorded in the proceedings of the
116 same day, and if a portion of the bid, and with it might have been recorded; it should undoubtedly have been recorded in the proceedings of the same day. It is not recorded; no minute of it made even on the blotter. That blotter is kept by the commissioners themselves as they set at the table, from which I make up the record.

Ques. 5. If such a communication was received, do you know that exhibit "A, C. M. V." is a copy of it?

Ans. I do not.

Direct examination resumed:

Quest. 6. In your search for the original of exhibit A, C. M. V., have you found any letter dated May 1, 1860, from Vallean & Jacobs to the commissioners of Hamilton county, to the same purport and effect as "Exhibit A, C. M. . ?"

(Question objected to by counsel for respondent as new matter, not proper for re-examination.)

Ans. No, sir.

JOHN R. SELDEN.

Deposition of Isaiah Rogers.

Isaiah Rogers, of lawful age, being by me first duly sworn, according to law, deposes and says, as follows:

Ques. 1. Are you the same Isaiah Rogers who lately gave a deposition on the part of the defendant of this case?

Ans. I am, sir.

Ques. 2. State what you know, if anything, of the taking apart of the whole or portions of several cells of the new Hamilton county jail, after the same were put together.

Ans. I know that there were some of them taken apart—portions of it.

Quest. 3. By whose direction, and why were they taken apart?

Ans. They were taken apart by my directions, sir, because they did not conform to the specifications and plan.

Quest. 4. In what respect did they fail to conform to, *conform to* the specifications and plans?

Ans. The holes for the rivets were not countersunk as the plans required.

Ques. 5. State if this mistake was afterwards rectified?

Ans. It was, sir.

117 Ques. 6. How have the holes been countersunk in the wrought iron plates forming the cells of the Hamilton county jail?

Ans. They were countersunk with an instrument called a coun-

tersink sufficiently to give a clinch to the rivet, and form a smooth surface on the inside. That is all that the specification required. A countersink is a flat instrument, with the edge leveled from the center outwardly, and worked by a brace in the hands of the operator.

Cross-question by counsel for respondent:

Quest. 7. Were not the holes for the rivets punched before the countersink was used?

Ans. They were, sir.

Quest. 8. What kind of a hole was made by the punching before the countersink was used?

Ans. The hole made by the punch was slightly larger on one side than the other, leaving a rugged edge. Exhibit "xxxx" has a hole similar to those punched in the plates of the cell. The side representing the rugged or rough edge was countersunk to clean that off and give a better clinch to the rivet. It was first put together without the countersinking or cleaning off the edge, and then taken apart and countersunk, and reput together. The cell was going on and being put together in that way, and I objected to them, not so much from the want of extra security as to have the plan carried out according to the specifications, as there had been complaints made in the public prints that it was not being carried out according to the specifications, and also by a communication to the county commissioners by Mr. Jacobs, the plaintiff in this suit, of the facts.

(Counsel for complainant objects to so much of the answer of the witness as refers to a communication from Mr. Jacobs, without producing the original, or proving its loss.)

ISAIAH ROGERS.

118 I, W. H. Baldwin, a notary public in and for the county of Hamilton, and State of Ohio, do hereby certify that James Egan, J. B. Elliott, Charles M. Valleau, Albert C. Stickney, Michael Goepper, Henry Zimmerman, John R. Seldon, and Isaiah Rogers were, by me, severally sworn to testify the truth, the whole truth, and nothing but the truth, and that the depositions by them respectively subscribed, as above set forth, were reduced to writing by myself in the presence of the witnesses respectively, and were respectively subscribed by the said witnesses in my presence, and were taken at the time and place in the annexed notice specified; that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit, and commenced at the time in the notice specified, and continued by adjournment from day to day, as above stated.

[SEAL.] W. H. BALDWIN,
Notary Public.

Notary's fees, $25 00; subpœna and constable, $1 50—paid by complainant.

Exhibit A, C. M. V.

(Copy.)

CINCINNATI, *May* 1, 1860.

Commissioners of Hamilton co., O.

With our bid for iron work we submit a sketch of plan for roof, as we propose to construct it. Having been told that the style shown on the plans was patented, we do not bid for it. We claim, under authority of letters patent of the United States, the exclusive right to build cells, as shown upon your plan.

Respectfully,

VALLEAU & JACOBS.

119 It is agreed these depositions may go in evidence without enveloping, upon being filed in court, subject to such exceptions, however, as to competency and relevancy as have already been taken.

LEE & FISHER.
WORTHINGTON & MATTHEWS.

Oct. 14, 1861.

Notice.

United States circuit court, southern district of Ohio.

The defendant will take notice that, on Wednesday, the eighteenth day of September, A. D. 1861, the complainant above named will take the depositions of sundry witnesses, to be used as evidence on the trial of the above cause, at the clerk's office of the court of common pleas, in the city of Portsmouth, in the county of Scioto, in the State of Ohio, between the hours of eight o'clock a. m. and six o'clock p. m. of said day, and that the taking of the same will be adjourned from day to day, between the same hours, until they are completed.

LEE & FISHER,
Att'ys for Complainant.

Service of the above notice is acknowledged, and proof of the official character of the officer before whom the said depositions may be taken is, by agreement, waived.

WORTHINGTON & MATTHEWS,
Attorneys for Defendant.

Depositions of sundry witnesses taken before me, Martin Crain, a notary public within and for the county of Scioto, in the State of Ohio, on the 18th day of September, in the year 1861, between the hours of 8 o'clock a. m. and 6 o'clock p. m., at the office of the clerk of the court of common pleas, in said county, pursuant to the annexed notice, to be read in evidence on behalf of the complainant in the said action.

eposition of M. Beyerley.

Michael Beyerley, of lawful age, being by me first duly
120 examined, cautioned, and solemnly sworn, deposeth and saith:

1st ques. by complainant. State your age, residence, and occupation.

Ans. I am forty-eight years old; I reside in the city of Portsmouth, Ohio; my occupation is a tinsmith.

2nd. By same. What knowledge have you of the construction and arrangement of the cells in the Scioto county jail, at Portsmouth, Ohio?

Ans. The cells are made of wrought-iron plates, not quite quarter-inch iron. There are sixteen cells, 8 above and 8 below; they occupy a space of 24 foot square.

3d. By same. By whom were said cells made and put up?

Ans. They were made and put up by Thomas F. Baker, of Cincinnati, Ohio, about October, 1860.

4th. By same. Describe fully the position of those cells, giving passages, space between them, mode of access to them, and all particulars relating to their location, with reference to the walls and other parts of the jail.

Ans. The cells are arranged above and below, and a hall running between; four cells below, fronting on each side of the hall, making 8 cells below. There are 8 cells above, 4 on a side, and fronting on the hall. The hall is entered from the outside, at a door above and below, and the cells entered from the hall. The cells are entered above in the hall from a balcony. There are two doors that enter the hall from the outside, one above and one below, double iron doors that are hung on the wall outside of the iron work, and an iron lattice door that encloses the iron work of the jail. The hall is 24 feet long, about 10 feet wide, and about 16 feet high. The cells are
six by 7 feet wide; the lower story cells are 8 feet high, and the
121 upper story cells are 7 feet six inches high. The cells are surrounded by a 13-inch brick wall, and a space all around the iron cells, between them and the brick wall of two feet, leaving the iron cells an iron building inside of the brick building, not touching the walls any place, either above or below, except at the main doors, and only resting on the ground or foundation around which the brick structure of the jail is built; and the cells are constructed of wrought-iron plates of the size before stated, above and below the same, making them a square iron box, with doors, &c., sitting inside of the brick building, and independent of it, except the doors in the brick building that pass to the space between the iron and brick walls. The iron work and outer wall connect only at the outer doors above and below, and connect the same by the windows. The entire iron enclosure of the jail, top, bottom, and sides, is made of plates of wrough iron as aforesaid, excepting the entrance doors, two windows in the end of the hall opposite the entrance doors, two ventilating grates in the iron floor of the hall,

and two ventilating grates in the iron ceiling of the hall. On the top of the iron enclosure is a lead line water tank, from which water pipes extend across the top and down the outside of the iron enclosure:

5. By same. How are the cells constructed. Describe fully.

Ans. The cells are constructed of wrought-iron plates of the size aforesaid, riveted together with about half-inch rivets, about three inches apart; the plates are about 30 inches wide.

6th. By same. What is the length of the wall plates, and how far do they extend?

Ans. The wall plates are about eight feet long, and extend from the bottom to the top of the cells in the lower story; and in
122 the upper story they are about seven feet six inches long, and also extend from the bottom to the top of the cells.

7th. By same. How are the wall plates united?

Ans. The edges of the wall plates are abutted together with a lap bar the same thickness of the plates, and about four inches wide, covering the seam on the outside, and riveted to the plates with two rows of ½-inch rivets, a row on each side of the seams, with the heads of the rivets on the outside, and riveted on the inside.

Adjourned until to-morrow morning, Sept. 19, 1861, at 8 o'clock a. m.

SEPT. 19TH, 1861, 8 *o'clock a. m.*

Met, pursuant to adjournment.

8th. By same. Who superintended the building of said jail?

Ans. The commissioners of Scioto county attended to the matter, but I don't know which one of them attended to it the most. I believe, though, Enslow managed the business most.

9th. By same. How are the rivets that fasten together the plates of the cells of said jail secured?

Ans. The heads of the rivets on the outside of the wall of plates, the rivets passing through the aforesaid lap bar, and through the wall plates on each side of the seams, being riveted on the inside of the enclosure, as represented by sketch, marked E, now before me, so far as I can discover by examining the out and inner surfaces of the iron walls.

10. By same. Examine drawings now before you, marked A and B, and state how far they represent the position of the cells, outer wall, the inner hall, and ground plan of the said Scioto county jail.

Ans. The drawing, marked A, is a correct representation of the ground plan of said jail, the measurement of the surrounding spaces between the brick walls and iron enclosure of the cells, as
123 also thickness of brick wall, I have measured, and found them correct. The drawing, marked B, is also a faithful representation of a vertical section of said jail. The iron work (by the width of the casings of the entrance doors and windows in the opposite end of the iron hall) was made with reference to the brick wall being placed the distance from it as represented in these two drawings, A and B, and further saith not.

MICHAEL BEYERLEY.

Deposition of G. W. Flanders.

Also George W. Flanders, of lawful age, being by me first duly examined, cautioned, and solemnly sworn, deposeth and saith:

First question by complainant: State your age, residence, and occupation.

Ans. I am forty-two years of old; I reside in the city of Portsmouth, Scioto county, Ohio, and I am auditor of said Scito county, and clerk of the board of county commissoners of said county.

2nd. By same. Examine the writings or papers now before you, marked F and G, and state what they are.

Ans. The paper now before me, marked F, is a true copy of the contract for building said Scioto county jail, between Thomas F. Baker, J. J. Appler, and the commissioners of said Scioto county, which is on file in the auditor's office of said county. The paper G, now before me, is a true copy of part of the specifications of the work on said jail—all that relate to the iron work.

3d. By same. Examine paper marked H, now before you, and state what it is.

Ans. The paper now before me, marked H, is a true copy of the record in my office of all that is on record in relation to the settlement and acceptance of said jail by the commissioners of said county, and said Thomas F. Baker.

4th. By same. Who superintended the building the jail on behalf of the commissioners of said county?

124 Ans. Mr. A. J. Enslow, one of said commissioners, was appointed by said commissioners to superintend the building of the jail, and he attended to that business, and further saith not.

GEORGE W. FLANDERS.

Sept. 19th, 1861, adjourned until to-morrow at 8 o'clock a. m.

SEPT. 20TH, 1861.

Met, pursuant to adjournment.

Deposition of John L. Ward.

John L. Ward, of lawful age, also being first examined, cautioned, and solemnly sworn, deposeth, and saith:

First question by complainant: State your age, residence, and occupation?

Ans. I am 49 years old: reside in the city of Portsmouth, Scioto county, Ohio, and am sheriff of said county.

2d. By same. What knowledge have you of the arrangement and construction of the Scioto county jail, at Portsmouth, Ohio, and by whom built?

Ans. I am well acquainted with all the important facts connected with the building of the Scioto county jail; the iron work was built by Thomas F. Baker, of the city of Cincinnati, Ohio, in the latter part of the year, 1860, under a contract made with him by the com-

missioners of Sciota county. The brick work was done by J. J. Appler, of Portsmouth, aforesaid; the cells, 16 in number, are embraced in an enclosure of wrought-iron plates, about ¼-inch thick, said enclosure being about 24 feet square, and 15 feet and 6 inches high, top, bottom, and sides, alike, except openings for ingress and egress, light, and ventilation, this enclosure is divided into 16 cells, 6 by 7 feet each, arranged in two tiers or stories, with a hall passing through the middle, said hall being 24 feet long, 10 feet wide, 15 feet 6 inch; 8 of these cells, comprising the first story, front inward
125 upon said hall, 4 of them on each side of the hall, and are 8 feet high; the other 8 cells are directly over those in the first story, and front inward on the hall in the same manner, and are 7 feet 6 inches high; the cells are composed of plates of wrought iron, similar to the enclosure; the plates of iron, composing the walls of the enclosure, extend from the bottom to the top of each cell, and are 8 feet long in the first, and 7 feet 6 inches long in the second story; the plates of the enclosure are secured by the edges being abutted together, and bars of iron about 4 inches wide and ¼-inch thick, covering the seems on the outside; these lap bars are riveted to the wall plates with 2 tiers of half-inch rivets, about three inches apart; the heads of the rivets are on the outside, with the riveted ends on the inside of the enclosure; before closing down the rivets on the inside, many of the rivet holes were first spread or countersunk by driving a tapering punch forcibly into said rivet holes from the inside. What proportion of the rivet holes were so spread or countersunk, I am not able to say. The iron work was made with reference to a surrounding brick wall, for the building which is so constructed, that it leaves a about 2 feet wide between the iron enclosure aforesaid, and the brick walls of the building, said space extending all the way around the iron enclosure, and also from the bottom to the top of the same; on the top of this iron enclosure, is placed a water tank, from which water pipes extend across the top and down the sides of the same, within the space between the iron and brick walls; the said space is approached by means of a door through one of the brick walls.

126 3d. By same. Look at the drawings hereunto annexed, marked A and B, and state how far they represent the position of the cells, outer wall and inner hall of the Scioto county jail?

Ans. I have examined the sketches hereto annexed, marked A and B. A is a faithful represenation, in outline, of the ground plan of the Scioto county jail; and B is also a faithful representation of a vertical section of the same. The measurements, marked on said drawings, according to the best of my recollections, are correct, an further saith not.

JOHN L. WARD.

THE STATE OF OHIO, *Scioto county, ss:*

I, Martin Crain, a notary public, within and for the county and State aforesaid, do hereby certify that the said Michael Beyerley, George W. Flanders, and John L. Ward, were by me first severally

sworn to testify the truth, the whole truth, and nothing but the truth, and that the foregoing depositions, by them respectively subscribed as above set forth, were reduced to writing by myself, in the presence of the said witnesses, respectively, and were respectively subscribed by the said witnesses in my presence, and were taken at the time and place in the annexed notice specified; that I am not counsel, attorney, or relative, of either party, or otherwise interested in the event of this suit; and said depositions were commenced at the time in the notice specified, and continued by adjournment, from day to day, as in said deposition set forth.

The said writings, papers, and drawings, hereto attached, marked A, B, F, F, G, and H are the indentical papers, writings, and drawings referred to in the foregoing depositions by the said witnesses, Michael Beyerly, George W. Flanders, and John C. Ward.

127 The complainant alone was present at the examination.

Given under my hand and notarial seal, at Portsmouth, this 20th day of September, A. D. 1861.

MARTIN CRAIN,
Notary Public. [SEAL.]

Notary's fees	$5 00
M. Beyerly, 2 days	1 50
George W. Flanders, 1 day	75
John L. Ward, 1 day	75
Total	8 00

Paid by complainant.

At a meeting of the commissioners of Scioto county, Ohio, held at the court-house in said county, June 7th, 1861, "it was ordered that A. J. Enslow settle the matter connected with the jail contract between Appler & Baker, and settle with the contractors, and close the matter up by issuing an order for any ballance found due them on said contract."

"H."

Writing H, referred to by the witness, George W. Flanders, in the deposition hereto attached.

MARTIN CRAIN,
Notary Public.

AUDITOR'S OFFICE,
Portsmouth, July 1, 1861.

"The commissioners of Scioto county, held a special meeting. Present, Wm. Veach, A. J. Enslow, and J. M. Violet." T. F. Baker, one of the contractors on the new jail, presented his account for balance due him on contract amounting to $1,702 $\frac{80}{100}$. which was allowed and ordered paid, after deducting from that amount $224 $\frac{48}{100}$,

am't paid J. M. Nichols for carpenter work; also $103 $\frac{25}{100}$, paid Byerly & Genlack; 4 dollars, paid for painting, and $139 $\frac{40}{100}$, paid for transportation of prisoners to and from Piketon after the 1st day of October, 1860, the time that the jail was occupied; also $17 $\frac{40}{100}$, paid Cady for balance due him on painting the jail. An order was given him for balance, and took his receipt in full. Orders were and had been issued to the different persons named for the amount found due them."

I certify the above to be a true copy.

G. W. FLANDERS, *A. S. C.*

128 "G."

Writing "G," referred to by the witness George W. Flanders, in the deposition hereto attached.

MARTIN CRAIN, *N. P.*

Iron work.

Enclosure. An iron enclosure 24 feet square by 15 feet 6 inches high, of $\frac{1}{4}$-in. wrought-iron plate, top and bottom and sides alike, (except door and gratings for light an ventilation.) The plates of iron composing the enclosure to have the edges abutted and the seams covered on the outside with bars of iron 4x$\frac{1}{4}$-inch, and riveted with best $\frac{1}{2}$-inch rivets, set in line courses on each side of the seams, and not more than three inches apart from center to center. The holes for the rivets to be countersunk on the inside of the enclosure to the depth of the thickness of the plates of iron, and the rivets set under a red heat to fill the said countersunk holes. The corners of this enclosure to be riveted to bars of angle iron, 2x2x$\frac{1}{4}$ in., with rivets the same size and distance apart, and countersunk holes on the inside the same as for the other points above described. Both flanges of all the angle bars to be set on the outside of the enclosure.

Divisions. The above enclosure to be divided into 16 cells 6x7 feet each, 8 of them 8 feet high each, and the other 8, 7 feet 6 in. high, and one hall 10x24 feet, and 15 feet 6 inches high, the plates fronting on the hall to have their edges abutted and the seams lapped on the front sides with bars of iron 4x$\frac{1}{4}$ inches, and riveted with $\frac{1}{2}$-inch rivets, set in line corners 3 inches apart from centers on each side of the seams; all of the corners of said divisions to be secured to bars of angle-iron 2x2x$\frac{1}{4}$ inches, and riveted with $\frac{1}{2}$-inch rivets as before described.

Entrance doors. Two entrance doors to the hall before described, one of them opening into the jail from the 6 foot hall on the first floor, and the other opening into the balcony in the second
129 story of the jail from the 3-foot landing on the stairway; these doors to be 6 feet 4 in. high by 2 feet 6 inches wide, of $\frac{1}{4}$-inch plate iron, paneled and moulded and framed with 2x$\frac{1}{2}$-in. iron, and 12 inch lock rail; the outside frames to present a face 4 inches wide and handsomely moulded; these doors to be connected to the main

enclosure by casings composed of plates of iron ¼-inch thick, secured to said enclosure and also to the frames in front by bars of angle-iron with ½-in. rivets, the same as described for said enclosure; these casings to be 36 in. deep. To lattice doors the same size of the plate doors, to be hung with heavy hinges on the casings above described opposite to the plate doors, and in line with the wall plates of the main enclosure; these doors to be made in frame work of 2x½-inch iron, and filling same size, with openings not more than 2 inches square; the hinges of the plate doors to be handsomely finished, of heavy wrought iron; the two lattice entrance doors to have 4x7-inch wickets.

Cell doors.

Each cell to have an iron door 2x6 feet, composed of a frame of 2½x5-8 iron, with the edges to the front, an 3 horizontal bars of the same size, with forged bracket shoulders well riveted into said frame at equal distances between the top and bottom bars of the frame; this frame to have 9 bars 7-8-inches round iron secured in top and bottom bars of the frame, and passing through the horizontal bars aforesaid; these doors to be hung on pivots, at the top and bottom, with two strong iron dags on the hinged or pivot side, made to pass into the door frame when it closes, so as to secure effectually that side of the door; the frames of the cell doors to be 2½x2½x⅜-inch angle iron; this frame to be
130 strongly riveted to the wall plates on the top, and both sides of the doorway, so as to form a rabbit 5-8-inch wide and 2½-in. deep; each door to have top and bottom bolts of ¾-inch square iron, well secured to wall plates on lock side of the door.

Windows.

A double grated window 3x6 feet in the end of the hall, directly opposite the entrance door into the second story; this window to have a caseing composed of plates of ¼-in. iron, secured to the wall plates by bars of angle iron the same as described for the entrance doors; to be 36 inches deep; of the two sets of iron grates in this casing, one of them is to be composed of 4 horizontal bars 3½x5-8 in., passing through the sides of the caseings, and 8 vertical bars round iron, 1¼ in. diameter, passing through the horizontal bars; the other is to be composed of 3 vertical bars, 3½x5-8 in., passing through the casings at the top and bottom, and 14 horizontal round bars. 1¼ in. diameter, passing through the vertical bars; this window to have an iron outside shutter ¼ in. thick, heavily hinged and made to fasten with a solid padlock on the inside.

Ceiling grates.

Two ceiling grates in the iron hall, 2, 6x8 feet each, composed of bars of iron 1¾x½ inches, with openings not more than 3 inches square for light and ventilation.

Registers.

Two registers in the floor of the iron hall, 16x16 inches, protected in the most substantial manner, and connected with the two counter flues below the cells.

Locks.

Two 13-inch plate locks for the main entrance doors, with outside knobs and latches of best make, worth $20 each; also two 10-in. plate locks for the two second entrance doors, worth $20 each; also, 4 solid padlocks, one for the top and bottom of each of the second entrance doors, worth $5 each;

131 sixteen cell door locks, 8½x12 inches each, in ¼-inch cases, fastened by ¼ inch lock plates and stirrups on the wall plates of the cells, a protruding bolt to pass through the angle-iron door frame on casing into the door, to secure it in the center.

Plumbing work.

Each cell to be provided with an enameled hopper and cast-iron stench trap, 4 ins. in diameter, and connecting with sewer pipes under the cells, the diameter of which shall be 4 in. at the first 12 feet, and 5 in. for the balance of its length, emptying into cess pools outside the jail building; each privy seat to have a hinged wrought-iron plate cover, to form a seat for prisoners; each privy seat to be connected, and washed out by a wrought-iron pipe of sufficient capacity for that purpose, with the water tank; also, 2 stench pipes of wrought iron, 2 in. in diameter, for washing out sewer pipes; water tank to be 3 ft. high, 3 ft. wide, and 10 ft. long, lined with sheet lead, weighing 5 lbs. to the foot, and all pipes leading therefrom to be supplied with drop valves placed inside the tank, which are to be operated by levers and wire pulls carried to convenient location for jailor, and so arranged that every 4 cells can be cleansed by each valve and wire-pull; tank to be supplied with water by a brass force pump, 3-in. chamber, and connected to cistern by a ½-in. lead pipe, and with the tank by 1¼-in. wrought iron pipe; also, a tell-tale pipe down from top of tank to the drain at the pump. There is to be a supply pipe and drain for washing purposes in iron hall next the entrance door, and connected with tank and valve to same and wire-pull, terminating at same place as the other pulls.

Ventilation.

132 Each cell to be ventilated by a 2½-in. cast tubes, terminating at tops of upper cells, and continued in the tubing to 4 8-in. main pipes of tin, surmounted by 4 8-in. Emerson ventilators above the roof. These specifications are understood to embrace all the necessary fixtures completed in their place, for a complete job of plumbing work.

Iron roof.

An iron roof 31x53 ft., ¼ pitch, to be composed of 12 pair of iron truss rafters, made of 2½-in. iron, for chord and rake, and 1½x⅜-in. iron filling; iron wall plates for the rafters, 4x8x¼-in. ridge bars, and purloins of 2½ in. I iron placed on top of rafters, and fastened by corresponding plates to rafters; the whole to be covered with No. 24 corrugated iron, well riveted together, and secured to purloins or rafters; to be painted on both sides with metallic paint, 2 coats.

Iron beadsteads.

Two iron beadsteads in each cell, 2 x 6 feet; frames of 1¾-in. angle iron, securely fastened to the cells.

Four skylights, 2x3 feet each; single panes of glass, ⅜-in. thick, in iron frames, well secured to roof.

Four wrought-iron grates, 8x15 in., for the ventilating flues in the outer walls.

Iron cornice.

A galvanized iron cornice, of proper size, to constitute the crown moulding of the brick work, and make a complete pediment and finish of the 2 eaves and front gable, with suitable 3-in. tin down-spouts, to connect with the cistern.

A plain banister, wrought iron railing, on each end of the steps, for the two outside doors.

Twenty-four cast iron windows and door caps, and twenty-two iron window cells, per plan.

133 "F."

Writing F referred to by the witness George W. Flanders in the deposition hereto attached. Martin Crain, N. P.

This contract witnesses, that Jesse J. Appler, of the city of Portsmouth, Sciota county, and State of Ohio, and T. F. Baker, of the city of Cincinnati, Hamilton county, State of Ohio, and James Graham and Andrew J. Enslow, two of the commissioners of said Scioto county, for said county, agree as follows:

The said Jesse J. Appler and T. F. Baker, for the consideration hereafter mentioned, agree to build and complete for said Scioto county, a jail in the city of Portsmouth, Scioto county, Ohio, on lot number three hundred and seventy-nine, in accordance with the plan and specifications hereto attached, marked "A," and made a part hereof; and the said Jesse J. Appler and T. F. Baker are to provide all necessary materials for constructing the same, and the work to be done, and said jail to be completed and ready for the use of said county by the first day of October, A. D. 1860, and said work to be done in a faithful and workmanlike manner. In consideration whereof the said James Graham and Andrew J. Enslow, commissioners as aforesaid for said Scioto county, agree to pay to the said Jesse J. Appler and T. F. Baker ten thousand three hundred and seventy-two dollars, as follows, to wit: Nine thousand dollars when the jail is completed, and the balance in the month of December, A. D. 1860. In witness whereof the parties to the foregoing contract have hereunto set there names on this 19th day of April, A. D. 1860.

J. J. APPLER.
THOMAS F. BAKER.
A. J. ENSLOW.
JAS. GRAHAM,
Com'r. S. C. O.

I hereby certify the within to be a true copy.
G. W. FLANDERS, *A. S. C.*

134

135 Bid No. 44. Wrought-iron work.—Valleau & Jacobs.

Exhibit J. R. S.

Bid for wrought-iron work for the new jail for Hamilton county to be erected on Sycamore street, Cincinnati, Ohio. Wrought sheet iron cells completed @ $400 00 per cell; feet lattice girders, for floors of first story @ $1 50 per foot; superficial sheet iron for connects on floor @ 20c. per foot; flights wrought iron carriages for all stairs to cells @ $10 00 per flight; corridor to cells, complete for the whole, $4,328 00; doors to cells, complete, included in bid for cells; tanks in

roof, complete, @ $205 00 each; roof complete, galvanized iron covering, @ 70c. per foot. To execute all wrought iron work not included in the above, and all jobbing necessary to be done by the smith on the building, and in finishing the whole complete, according to plans and specifications; bolts, locks, hinges, etc., for gate to be put on. We hereby offer to furnish all materials, labor, etc., and execute and perform all the above items of wrought-iron work, or any part thereof, which the Hamilton county commissioners or the superintendent appointed by them may desire to have done at the prices therein named, on the building about to be erected on the site of the new jail in Cincinnati, agreeably to the plans and specifications in the possession of the superintendent, who is to oversee its erection, and immediately on the reception of notice of the acceptance of the above bid or any part of it, by the said commissioners, will enter into a contract to perform the same, and give satisfactory security for its faithful execution.

(Signed) VALLEAU & JACOBS.

April 30, 1860.

We hereby guarrantee that Valleau & Jacobs, the above bidders, will comply with the above terms and provisions of the advertisement under which the bid is made, provided a contract is awarded to them thereon.

(Signed) PHILLIPS & SON.

136 AUDITOR'S OFFICE,
Hamilton County, Ohio, Sept. 30th, 1860.

I hereby certify that the foregoing is a true copy from the commissioner's minutes containing the record of bids for work on new jails.

In witness whereof, I hereby place my hand and the seal of this office this 30th day Sept., A. D. 1861.

[SEAL.] WM. WARD, *Auditor.*

Notice.

Circuit court United States, southern district of Ohio.

ENOCH JACOBS
vs.
THOMAS F. BAKER.

The complainant will take notice that on Monday, the 23d day of September, A. D. 1861, the defendant above named will take the depositions of sundry witnesses, to be used as evidence on the trial of the above cause, at the office of Worthington and Matthews, No. 23 West Third street, in the city of Cincinnati, in the county of Hamilton, in the State of Ohio, between the hours of eight o'clock a. m. and six o'clock p. m. of said day, and that the taking of the same

will be adjourned from day to day, between the same hours, until they are completed.

WORTHINGTON & MATTHEWS,
Attorneys for defendants.

Service of the above notice is acknowledged, and proof of the official character of the officer before whom the said depositions may be taken is by agreement waived; also, all exceptions in regard to time.

LEE & FISHER, *for Complainants.*

Depositions of sundry witnesses taken before me, Edwin Cox, a notary public within and for the county of Hamilton, in the State of Ohio, on the twenty-third day of September, in the year one thousand eight hundred and sixty-one between the hours of eight o'clock a. m. and six o'clock p. m. of said day, at Cincinnati, in said county, pursuant to the annexed notice, to be read in evidence on behalf of the defendant in the said action.

Deposition of Isaiah Rogers.

Mr. Isaiah Rogers, of lawful age, being by me first duly ex-
137 amined, cautioned and solemnly sworn, deposeth and saith:

Quest. 1. What is your age, residence, and profession; how long have you been engaged in studying and practicing that profession; in what capacity, if any, are you now employed by the commissioners of Hamilton county, Ohio, and how long have you been so employed?

Ans. My age is 61 past; I reside in Cincinnati, and by profession an architect; I have been in business since 1825. I presume I must be considered as architect of the county jail, although I was discharged some three months since. I have been employed from this time back some five or six years.

Quest. 2. Look at the plans now shown you, marked exhibit "F," and state what it does or was intended to represent; when, and by whom, and at whose request it was designed and drawn.

Ans. This plan was drawn in 1851. I was employed by the county commissioners at that time, two of whose names are down here. The date of the contract, taken from my memorandum book, was July 15, 1851. It represents the plan of the jail, which I was employed to make by the county commissioners, and was adopted by them; I was designed by myself and drawn in pencil, but afterwards finished by my son.

Ques. 3. State what the parts of said plan marked respectively 1, 2, 3, were intended to represent.

No. 1 is intended to represent the outside wall of the building; No. 2, space for lights and ventilation, and for approach to make any repair in the cells, or in changing them, the entrance to which is from the private staircase, marked 4 on the plan; No. 3, are the
138 cells, placed contiguous to each other, and project by each other the width of the door, to admit of a view from the guard-room, marked 5.

Quest. 4. State the situation of the space marked 2, with respect to the other parts of the jail, the size of that space, and the purpose for which it was designed.

Ans. It was designed expressly for light and ventilation, and for the purpose of repairs. The situation of it is outside of all the cells. The size of it varies in different parts. I suppose it would average about 8 feet.

Ques. 5. State the manner in which the cells of the jail marked 3 were to be constructed and arranged.

(Objected to.)

Ans. The cells were intended in this case to be made of plates of cast-iron, according to plan exhibit G, drawn to a larger scale, portions of the sections of cells being drawn full size. They are arranged diagonally from a line passing through the plan of the wings of the jail.

Quest. 6. State what parts on the plans marked F & G pointed to and designated by the figure 6 are intended to represent.

Ans. They are intended to represent the range of cells or so much thereof as comes in contact with each other, with the space of two inches between filled up with concrete.

Quest. 7. State how many tiers there were intended to be in said jail, and the distance between the tiers, if any.

Ans. There were four tiers, with a space of two inches between the floor and ceiling filled up with concrete.

Quest. 8. Of what materials were the cells to be made?

Ans. They were to be made of cast-iron.

Quest. 9. State whether or not the said plan was accepted by the commissioners of Hamilton county, and if so, whether any contract was made by them for the erection of the jail in accordance with that plan; if so, with whom?

Ans. The plan was adopted and accepted by the county
139 commissioners, and a contract made with M. H. Cook & Co. on the 15th of July, 1851, and the plans were signed at the time of the contract by the commissioners and M. H. Cook & Co.

Quest. 10th. Look at exhibit "B," attached to your affidavit heretofore filed in this cause, and state what it was intended to represent.

Ans. Exhibit B represents the jail now being erected in Cincinnati, Hamilton county, in rear of court-house, and fronting on Sycamore street. It is a copy from the original which was made in pencil and lithographed. This plan was made from a pencil sketch from which a larger working plan was made.

Ques. 11th. State when and by whom that original plan was made and whether or not it differs in any respect from the exhibit marked B.

Ans. It differs in nothing particular. There are some differances, but they are so slight that they do not interfere with the original plan. It was made by myself and it was completed in pencil on December 5th, 1857. It was also designed by myself without any suggestions from any one else to my knowledge.

Ques. 12th. State what the parts on that plan, marked respectively with the figures 1, 2, 3, and x, represent?

(Mr. Fisher for complainant objects to the question, because there is no proof to show at what time the plan marked exhibit B was made and the original is not presented.)

Ans. They represent the cells in the jail, the space between the cells and walls for light and ventilation. No. 3, represents the exterior walls. No. 4, the guard-rooms or entrance to all the cells by stairways, &c.

Quest. 13th. State whether or not the jail now being constructed for Hamilton county on Sycamore street, has been constructed,
140 so far as the work has gone, in accordance with the plan marked exhibit B, so far as the parts marked 1, 2, and 3, are concerned.

Ans. It has in every respect save one, except in case of the cells coming up to the wall marked 1, which was varied for a particular purpose, that is for giving space for getting at the water-pipes, ventilating-pipes, &c.

Ques. 14th. State by whom the space between the cells and the walls in the Hamilton county jail, represented in the plan B by the figure 2, has been or his now being made?

Ans. T. F. Baker is doing it by contract as I understand. The whole building is contracted for with Handy & Bro's, except the stone work and part of the basement. Mr. Baker has the contract for the iron work from Handy and Brothers.

Quest. 15th. Who put up the exterior walls of the jail?

The contract was made with Hudson and Carleton, and has been done by them so far. The backing of the walls is done by day by the county.

Adjourned until 2½ p. m.

Quest. 16th. State whether you have the original, of which exhibit B is a copy, now in your possession; if so, will you produce, mark it, and make it a part of this your deposition?

Ans. I think I have it, I will look for it and give it to you.

Ques. 17th. State as near as you can when the plan marked exhibit B was made.

Ans. Well, I cannot state as to the exact date until *until* I refer to my memorandum.

Quest. 18th. Look at the paper marked exhibit C, annexed to your affidavit filed in this cause, and state what the drawings thereon, marked respectively A and B, represent?

Ans. A represents full sized sections of the different parts of the cells; B represents the different sides, ends, and bottoms of the cells and top also. They are the cells of the jail now being erected
141 in Hamilton county.

Ques. 19th. When and by whom were those cells designed?

Ans. They were designed by myself, and made previous to the bids for the contract, the exact date of which I do not know without referring to my memorandum.

Ques. 20th. State of what material the cells was to be made, according to your design, the form, and dimensions of that material, and the manner in which the joints, if any, were to be made?

Ans. The cells were to be made of boiler iron 3-16 of an inch thick. The thickness only was named, the length would correspond with the hight of the cell. The size of the cell was 8 ft. 6 in. by 6 ft. 6 in. The dimensions of the plate were shown by the plan. The plates were to be all abutted to make an even surface on the inside. The exterior of the cells were to have in the joints corrugated baton, as shown by letters A, the object of which was to give lateral strength as well as vertical support to the cell, having made the plates thinner than I would have done with plain batons. The rivets securing the baton to the plates were riveted on the inside, the plates being countersunk in the manner exhibited by the plan, so as to make an even surface on the inside.

Ques. 21st. When and by whom was the corrugated baton designed?

Ans. I made a plan of it without ever having seen or heard of it. The suggestion I had was from a model of a corrugated beam I had. I cannot state the exact time, it was some time previous to the lithographs.

Quest. 22d. State whether you ever had any conversation with the plaintiff in this case in relation to your design of that corrugated baton; if so, state when and where that conversation took place, and what it was as near as you can recollect.

142 Ans. I had a conversation with Mr. Jacobs. He was in my office. I took out my plans, and showed him the plans of the cells and wished him to make a copy or rather a plan of the corrugated baton, for the workman to estimate by. He suggested to me that he had a plan of a cell which he wished me to see, of his own design. I think I told I would go down when I had an oppertunity, but I don't recollect of ever going there to see it. The plan that Mr. Jacobs made he either brought or sent to my office, and it remained there a long while. It was made of iron. I showed it to a great many mechanics who came in, but when I enquired for it, it was gone.

Quest. 23d. State whether or not the specimen of the corrugated baton made by Mr. Jacobs for you was the same as you previous design, and whether or not it was the same as the one now used in Hamilton county jail.

Ans. It was the same as I designed and the one now used in Hamilton county jail.

Quest. 24th. State whether or not Mr. Jacobs, in the above mentioned conversation or at any time claimed to you to be the inventor of that corrugated baton.

Ans. I have no recollection in any conversation with Mr. Jacobs of his stating to me that he had a patent or ever intended to get a patent for it.

Ques. 25th. State whether or not the cells in Hamilton county jail have been constructed according to the plan marked C.

Ans. They have been so constructed.

Ques. 26th. State what are the dimensions of the space enclosed by the corrugation of the baton in Hamilton county jail, and whether that space is large enough to contain a water pipe, speaking tube, or to be used for any of the purposes specified in Jacobs'
143 patent, dated the 21st of February, 1860.

Ans. The size is one inch by half-inch semi circle. It would be possible to put in a waterpipe $\frac{1}{4}$-inch bore, and a speaking tube $\frac{3}{8}$ of an inch bore.

Quest. 27th. State whether or not, to your knowledge, the plaintiff Jacobs saw the plans marked exhibit B and C, or others like them, before the contract for the building of the jail; if so, how long before?

Ans. I recollect of showing him the plans some time of course before the bids for the contract were made. In showing these plans, I drew out of him the remark that he had a cell that was superior to mine.

Adjourned until to-morrow morning, Tuesday, Sept. 24th, at 10 o'clock a. m.

TUESDAY MORNING, *Sept. 24th.*

Examination of Isaiah Rogers resumed:

Quest. 28th. State whether or not the plaintiff Jacobs in the conversation referred to in your last answer, or at any time before the contract for the building of the jail was made, claimed to you that he was the inventor of any of the devices used in the construction of the cells or their arrangement within the building.

(Objected to by Mr. Fisher, attorney for plaintiff.)

Ans. I have no recollection in any conversation with him of his having claimed to have any patent for any part of the work that I had designed. He did not claim to be the inventor as I recollect.

Quest. 29th. State the time, as near as you can, when the first plan of the present jail was designed and drawn by you?

The plan was made in pencil June 6th, 1856. This plan is exhibit H. hereto attached and made a part of this deposition, that is the plan was commenced June 6th, 1856. I worked on it at nights at home, and as soon as I had penciled them out, I took them to the office. As
144 far as the arrangement of the cells was concerned the plans were finished within a few months from that date, so I might know the size of my chimney stack, and I was compelled to determine the number, size and arrangement of the cells so that they might not interfere with the chimney stack, which was built in November, 1856. Nothing further was done until Nov. 2d, 1859, when the original of which, exhibit I, is a tracing was finished. The jail is built in accordance with exhibit I, which differs from exhibit H, leaving off one wing of the cells, and substituting in place of the cells the dwelling part.

Quest. 30th. State whether or not there is any difference, and if any, what, between the plans H and I, so far as the construction of the cells and their arrangement in the building are concerned.

Ans. There is no difference in their general arrangement, but there may be in their position. I understood the question; there is no difference in their arrangement.

Quest. 31st. State when the lithograph plans, exhibit B and C, were made, as near as you can.

Ans. They were made from the middle of March to the middle of April, 1860. The originals were prepared for the lithographers about that time, and I have them not in my possession, and do not know where they are.

Quest. 32d. Look at exhibit K, hereto annexed and made a part of this deposition, and state what it is and when it was made.

Ans. It is a plan of the cells in pencil as present erecting. That plan I commenced on December 19th, 1859.

Quest. 32. State what the drawings thereon, numbered respectively No. 1, 2, 3, and 4, represents.

Ans. No. 1 represents the top of the cell; No. 2 repre-
145 sents the rear end of the cell; No. 3 represents the entrance end of the cell; No. 4 represents the full sized sections of the iron work of the cell.

Quest. 33. State when the cell now used in Hamilton county jail, and figured on exhibit C and K, was first designed by you.

Aus. It was first designed on June 6, 1856. The general arrangements were designed at that time, the kind of iron, &c., but the details were not determined until December 2nd, 1859.

Ques. 34. State how far, in the year 1856, you had determined the size, form, and material of the cells, and the manner in which the same should be jointed, if there were any joints.

Ans. At the time I determined to change the material of the cell, I thought in my mind how I should join the plates together, in order to get an even surface. The plates were abutted with a flat baton on the outside, plates countersunk on the inside. I determined this in my mind, but put nothing on paper until December 19th, 1859.

Quest. 35. State what work T. F. Baker, the defendant, has performed in building the jail.

Ans. He has made and put up all the lattice and roll girders, and the supporting part of all the roof. All the cells are put up also. Columns and stairways, rotunda, and the other iron work, is not completed. He has done no other work about the jail, except the iron, that I know of.

Ques. 36. State, whether or not, there are in the room or space marked 2, on exhibit B, any means of hearing what goes on in the 2nd, 3d, and 4th tiers of cells in the Hamilton county jail, and whether it is possible for any one stationed in that room or space to hear what is going on in those rooms or cells.

Ans. The cells are made with the intention of making them air-
tight on that side, so that I do not think it possible to hear
146 anything going on in the cells. That space is open from the floors to the ceiling without galleries or stairways. The windows of the cells in the rear are filled with glass ½ an inch thick, so that a person in the room could not see in the cell. I could not hear

anything going on in the cell except what could pass through the iron, the pores of the iron.

Ques. 37. State, whether or not, a guard, stationed in guard-room 4, on exhibit B, could see into the interior of each of the cells.

Ans. It is calculated that $\frac{2}{3}$ of the area of the cell is visible from the guard-room from some one of the windows. A guard passing along the corridors can look into each of the cells, and se everything that is in it without opening the door. No one prisoner can see another in the whole building while in his cell.

Quest. 38. Describe the size of the passage between the wall and the cell in the jail as it is actually built, and state how it is closed.

Ans. The space or passage between the cell and the wall is about 20 inches wide, and clear. On the first story it is intended to be closed by a door diagonally from one cell to the other, that door opening out from a closet between the two cells. The space in the three upper tiers of cells will be a close partition without a door.

Quest. 39. Have you given an affidavit in this cause; if so, will you identify it, and make it, with the exhibits, a part of your deposition.

(Objected to by plaintiff's counsel.)

Ans. I have given one, and will make it a part of this deposition.

Cross-examination by plaintiff's attorney.

Ques. 40. In your affidavit, exhibit L, you say, referring to
147 plan A, the cells were piled up, one upon another, in four tiers, &c. Do you mean that any cells were in fact constructed at that time in accordance with this and the following description?

Ans. They were intended to be so; they were constructed on paper in that way.

Ques. 41. Was any jail, in fact, ever built according to plan A?

Ans. Not that I know of, or any one that ever I consulted with.

Ques. 42. Was any jail ever constructed in accordance with exhibit F?

Ans. None that I know of, only on paper and specifications.

Ques. 43. Was any jail ever constructed in accordance with exhibit H?

Ans. Not that I know of.

Ques. 44th. At what time did your conversation with Mr. Jacobs, in relation to the corrugated baton, of which you have spoken in your answer to question 22, take place?

Ans. I don't know the exact date. I think it was after I made exhibit K, or about that time, and before the bids were made. I wanted the model for those who were going to bid.

Quest. 45. Did you have more than one conversation with him relating to the construction of the baton?

Ans. I have no recollection now of having more than one. I might have had, but my recollection does not point it out to me.

Quest. 46. At the time of this conversation, did you not discuss with him various shapes for the rib of the baton?

Ans. There might a discussion have taken place, but I do not recollect exactly. I know that he made one remark; that he had a plan of a cell that was superior to any he had seen, and wanted me to come down and see it. I gave him to understand that I had fixed my plan, and did not want it changed.

148 Ques. 47. When did you first make a sketch or design on paper of any kind of the details of the wrought-iron cells, as now being constructed in the Hamilton county jail?

Ans. That was the same as I answered some time ago, on December 19, 1859.

Quest. 48. When were such designs or plans, either for cast or wrought-iron cells, first lithographed or engraved?

Ans. They were lithographed in the month of March or April, 1860.

ISAIAH ROGERS.

(Adjourned until 2½ o'clock p. m.)

The further taking of testimony is adjourned until Wednesday, Sept. 25, 1861.

WEDNESDAY, *Sept.* 25, 1861.

Testimony resumed.

Deposition of Michael Clements.

Michael Clements, of lawful age, being by me first duly examined, cautioned, and solemnly sworn, deposeth and saith:

Ques. 1. State your age, residence, and occupation, and how long you have been engaged in that occupation.

Ans. My age is 26; my residence, city of Cincinnati; my occupation is iron worker, and have been engaged in that occupation about 10 years.

Ques. 2. State whether you are acquainted with the manner of manufacturing wrought-iron plate jails; if so, how long jails of that character have been in general use?

Ans. I am acquainted with the manner of making such jails, and, as far as I know, have been made for 5 years.

Quest. 3d. State the form of the plates used, and how far they extend.

Ans. The plates extend the full size of the cell, whether it is the length, or hight, or width.

Ques. 4. How are those plates used in making the cell joined together?

Ans. By being abutted together, the edges being joined by a baton on the outside.

Quest. 5. How is that baton fastened to the plates?

149 Ans. By being rivetted with a rivet on each side of the seam running through the baton and sheets.

Ques. 6. Look at exhibits M and N, hereto attached as part of your deposition, and state whether or not they truly represent the manner of joining the plates described in your last answer.

Ans. Yes; that represents them exactly.

Quest. 7th. State how long that method exhibited by exhibit M & N has been known and in general use in making wrought-iron plate jails.

(Objected to by Mr. Fisher, plaintiff's attorney.)

Ans. Ever since I have been in the business.

Quest. 8th. State, whether or not, in making iron plate jails, rivets countersunk so as to be flush with the inside of the plates, have been used in combination with abutted plates and a baton; if so, how long have they been so used?

Ans. They have been used whenever the specifications called for them to be so; at the same time they were countersunk, even when the rivet is abutted.

Ques. 9. State, whether or not, you worked upon a jail erected at New Albany, Indiana; if so, state when that jail was erected, and by whom.

Ans. Yes; I worked on that jail. It was erected in 1858, by T. F. Baker.

Ques. 10th. Look at exhibit O, hereto attached as part of your deposition, and say whether or not it truly represents the ground plan of said jail.

(Objected to by plaintiff's attorney.)

Ans. It does represent it.

Ques. 11. Look at that plan, and state what the parts thereof, marked respectively No. 1, No. 2, and No. 3, represent.

Ans. No. 1 represents the space between the cells and the wall; No. 2 represents the cell; No. 3 the wall.

Ques. 12. What is the width of the space marked No. 1?

Ans. It is, as near as I can recollect, 8 or 10 feet between
150 the cells and the wall.

Ques. 13th. Describe particularly how the cells in that jail are made.

Ans. They are made by having them all the way round, excepting the end which goes against the wall, abutted with a baton on the outside.

Ques. 14. Of what material are those cell composed?

Ans. They are composed of boiler plate, a quarter of an inch thick, a scant quarter. We call them a quarter.

Ques. 15. What are the size of those plates?

They correspond with the dimensions of the cell; they are for the length of the cell, or the hight of the cell, as the case may be.

Ques. 16. How are those plates joined together?

Ans. The plates on the inside are joined together by being lapped over about 2 inches, and those on the outside I have already described.

Ques. 17. State whether or not you worked upon a jail erected at Lawrenceburg, Ind.; if so, state by whom that jail was erected, and when.

Ans. It was erected in 1859, in the summer, along about July or August. I think it was the latter part of July. It was erected by T. F. Baker.

Ques. 18. State, whether or not, you are acquainted with the manner in which the cells of that jail are constructed and arranged in the building; if so, describe the manner in which they are constructed and arranged.

Ans. They are constructed by a hall running through the center; by a wall built close to the cells all the way around, and the sheets fronting in the hall, the edges abutted with a baton on the hall side. The sheets of the floor of the hall has a baton on the underside, the rivets passing through, the rivets flush on the top of the sheet. The size of sheets correspond with the hight of the cell.

Ques. 19. Look at exhibit P, hereto annexed as part of
151 this deposition, and state what it represents.

Ans. It represents the cells in the Lawrenceburgh jail that I have just described. No. 1 represents the cell; No. 2 the interior hall; No. 3 the wall; No. 4 the ventilation; No. 5 the air space between the wall and cells.

Ques. 20. State whether or not you worked on the jail erected in Portsmouth, Ohio, by Mr. Baker in the year 1860, and whether you are acquainted with the manner of its intended arrangements.

Ans. I did not work on it up there, I worked at it down here; but I know exactly how it was put up. It was put up after the manner of the Lawrenceburg jail.

Ques. 21. State whether or not you worked upon a jail erected at Hickman, Ky. If so, state when, by whom, and how it was made.

Ans. It was made in the winter of 1859; it was before Christmas. It was made by T. F. Baker. It was made with a hall on the outside between the cells and wall, the same as the New Albany jail. There were batons on the outside on all the exterior joints, facing out on the hall. The sheets on the inside were lapped two inches over. There is a space between the cell and the wall all the way around on the four sides; I suppose it is about 6 feet wide.

Ques. 22. State whether or not you worked on a jail erected at Helena, Ark.; if so, when, by whom, and how it was constructed.

Ans. It was constructed, I think, in the summer 1860; it was early in the summer, I think, May or June. The cells were made by being placed in the centre of the room with a space all the way around. It was constructed by T. F. Baker. The plates were the whole hight of the cell, I suppose ten or eleven feet. There are two large
152 rooms, one on either side of the entrance. On the back part is on large equal to the two other rooms and hall together in length. In this large room the cells are placed right in the centre with a space 8 or 10 feet wide, as near as I can recollect, all the way around.

Ques. 23. Look at exhibit R, hereto annexed as part of your deposition, and state what it represents.

Ans. It represents the jail at Helena that I have just described.

Ques. 24. State whether or not you are in the employ of the defendant in this suit, Mr. T. F. Baker. If so, how long have you been, and in what capacity?

Ans. I am in his employ; have been for about 5 years. I am superintendent of iron works; jail works in particular.

Ques. 25. State whether or not during that time you have had full knowledge of the way in which jail work has been done in Mr. Baker's establishment, and if so, state whether or not the joints in iron-plate jails have been made in any other manner than that shown by exhibits M & N.

(Objected to by Mr. Fisher, plaintiff's attorney, as leading.)

Ans. I have had full knowledge of the manner in which they were made. The joints have been made in no other way than that shown in exhibits M & N.

Ques. 26. What effect is produced upon the rivet holes by the act of punching them?

Ans. We punch the holes so that the will be wider on one side than the other, punching and countersinking them at the same time.

Ques. 27. How are the holes in exhibit M made, and by whom?

Ans. They are made simply by punching them. The punching die is fixed so that they are made wider on one side than the other all the time. I punch the holes myself.

Ques. 28. How long has that method of punching holes in
153 iron-plate jail work been in use?

Ans. As a general thing a punch makes a hole larger on one side than the other, and when we want to make it larger, and if not we use the ordinary punch.

Cross-examined by plaintiff's attorney:

Ques. 29. When did you first see a wrought iron-plate jail so as to become acquainted with the details of its construction?

Ans. In 1858.

Ques. 30. Where was said jail?

Ans. In Cincinnati.

Ques. 31. Where was it afterwards put up?

Ans. At New Albany, Inda.

Ques. 32. When was it made in Cincinnati, and when was it put up at New Albany?

Ans. As near as I can recollect it was in 1858. Whether any of it was done in 1857 I do not recollect; it was put up in 1858, the later part of 1858, at New Albany.

Ques. 33. How are plates forming the side or separation wall of the cell joined?

Ans. They are not joined, they are lapped. It is only those on the out side that are joined. One laps over the other about two inches, and riveted right through.

Ques. 34. How are the same plates united in the Lawrenceburgh jail?

Ans. The plates forming partitions are the same, lapped over on the inside.

Ques. 35. Why do you say then that the joints in iron-plate jails made by T. F. Baker have never been formed in any other manner than by abutting, covering the seam of the baton?

Ans. Lapped and joined are two different things. There is no other way to join than in that way. I did not say they were lapped, but that is the only way that they are joined.

Ques. 36. If two plates are lapped and riveted don't you call them joined?

Ans. No, sir.

Ques. 37. What do you mean, in the answer to question 16, when you say the plates on the inside are joined together by being lapped over about two inches?

154 Ans. I did not say they were joined; I said they were lapped. The inside sheets were lapped sheets; the outside were abutted and joined.

Ques. 38. In your answer to question 16 in full, reads as follows: The plates on the inside are joined together by being lapped over about two inches, and those on the outside I have already desribed. Is that answer right or wrong?

Ans. Those sheets on the inside are lapped over about two inches; I do not call that joined; I call them lap sheets.

Ques. 39. Wheh you say then that the joints in iron-plate jails made by Mr. Baker have always abutted, do you mean to refer to those jails made by him where the plates lapped?

Ans. I mean those plates on the hall on the inside. When it requires a nice finish they are always abutted; plates that are lapped are all on the inside. On the outside they plates are abutted together with a baton. The plates that are lapped are the ones for partitions.

Ques. 40. Did the specifications of the cells of the New Albany jail require the rivet holes to be countersunk?

Ans. That I cannot recollect now without referring to the specifications.

Ques. 41. If the specifications did not so require, how would you have made the holes; with the ordinary punch or with a punch and large die?

Ans. I would have made them with an ordinary punch, with the holes larger on one side.

Ques. 42. Were the holes in exhibit M made with an ordinary punch?

Ans. They are not made with an ordinary punch, but they are made countersunk with a die that is used for countersinking. The ordinary punch would have countersunk them a little, but not so much.

155 Adjourned by consent until Friday morning, Sept. 27th, 1861, at 10 a. m.

Sept. 27th, 1861.

Direct-examination resumed:

Ques. 43. In your answer to question 8, you say as follows: At the same time they were countersunk, even when the rivet is abutted. Explain what you mean by that.

(Objected to by plaintiff's attorney as not proper in re-examination, no reference having been made to the question in cross-examination.)

Ans. What I mean by that the holes are always more or less countersunk, when we want the holes countersunk enough so that we can chip the rivet off or rivet them down flush to the sheet, we make a

punch tapering up, not down; we make the die large enough to suit the punch, the holes being countersunk large enough on one side so that the rivet can be rivetted down flush to the sheet.

Ques. 44. How long has the method of riveting described in you last answer been in use?

(Objected to by plaintiff's attorney as improper on re-examination and irrelevent to the issue.)

Ans. It has been done that way ever since I have been in the business, in jail work and every other kind of work where it is required to be so.

Ques. 45. State whether or not that method of rivetting has been used in the defendant's establishment. If so, state for what kind of work, and how long a time.

(Objected to by plaintiff's attorney as improper on re-examination, irrelevant and leading.)

Ans. It has been used in Mr. Baker's establishment, and for all kinds of work. It has been used there as long as I have been there for jail work or any other work when it was required to be done.

Ques. 46. State at what time the work on the cells for the Lawrenceburgh jail, and on those for the jail at Hickman, and
156 those for the jail at Helena, was commenced respectively. Also, state the same for the New Albany jail.

Ans. The iron for the Lawrenceburg jail was ordered January 12th, 1859; for the Hickman jail, was ordered March 3, 1859. I can't recollect when the work on the Helena jail was commenced. It was shipped the 24th of June, 1860. The iron for the New Albany jail was ordered March 31, 1858. Those are the dates at which we commenced the jail. As soon as the iron is ordered we begin to lay out the jail. It may take a week or ten days before we get the iron, but we commence to lay out the jail immediately.

Ques. 47. Look at exhibit marked S, hereto attached, and state by whom it was made, and how it was it was fastened together.

(Objected to by plaintiff's attorney as improper in re-examination, being new matter.)

Ans. It was made by myself; drilling the holes, countersinking the bars, on either side, putting the rivet through and rivetting down flush with the bars.

Re-cross-examination:

Ques. 48. In your answer to questions 44 and 45, state whether in speaking of "that method of rivetting" you referred to the use of the punch tapering up, and the large die.

Ans. We never use that punch and the large die, only when it is required that the holes be countersunk enough so that the rivets may be rivetted down flush.

Ques. 49. How long have you used that kind of punch and die for countersinking?

Ans. I can't state exactly how long.

Ques. 50. What was the first jail upon which you used them?

Ans. We have used them on all the jails we have built, but not to

make such a deep countersink as we have made on the Hamilton county jail.

157 Ques. 51. Have you used them upon any jail to countersink the plates as deeply as the Hamilton county jail; if so, what jail?

Ans. I could not state that positive, some might have been countersunk as much as the Hamilton county jail.

MICHAEL CLEMENTS.

Deposition of T. Moorman.

Theodore Moorman, being by me first duly cautioned and solemnly sworn, deposeth and saith:

Ques. 1. State your age, residence, and occupation, and how long have been engaged in that occupation.

Ans. I am 39 years old; I reside in Cincinnati; I am a finisher in iron work; I worked for Mr. Baker's father, and then for him, until about two years ago.

Ques. 2. When did you first see a wrought iron plate-jail, and where?

Ans. I saw the first one here in Mr. Baker's shop. I believe it was in 1857.

Ques. 3. How large were the plates in that jail?

Ans. They were of different sizes; some of them were 2½ feet, and some 2 feet wide, and about 7 feet high. They extended the whole hight of the cell, from top to bottom.

Ques. 4th. How were the plates joined together?

Ans. They front the same as this one, (pointing to exhibit M.) The back plates were lapped.

Ques. 5. Have you ever, since that time, seen jails constructed and jointed in the manner you have described? If so, how many?

Ans. About seven.

Ques. 6. State, as near as you can, where they were constructed, and by whom.

Ans. I believe 5 in Baker's shop, and in Macy and Rankin's, 13.

Ques. 7. In what towns were they erected?

Ans. One went to New Albany; one went to Lawrenceburg; one at Palmyra, Mo., which were made by Mr. Baker.

Ques. 8. Did you work upon the jail?

Ans. Yes, sir.

Ques. 9. How are the holes made in exhibit M?

Ans. They are punched.

158 Ques. 10. Are they countersunk?

Ans. They are countersunk with the punch only; one side of the hole is wider than the other.

Ques. 11. With what kind of a punch are these holes made?

Ans. They are made by a half-inch punch.

Ques. 12. Was the die used in making the holes in exhibit M larger or smaller than the punch, or of the same size?

Ans. The die was larger than the punch.

Ques. 13. In the jails of which you have spoken were the rivet holes punched or drilled? If punched, state in what way.

Ans. There a few drilled, but most of them punched, about one drilled to a hundred punched. We only drilled where we could not punch; we punched them with a punch.

Ques. 14. In punching the rivet holes in those jails was the die used larger or smaller than the punch, or of the same size?

Ans. The die was a little larger than the punch.

Ques. 15. When was that method of punching the holes first used, as far as you know?

Ans. It was in 1857, in the New Albany jail, was the first one I worked on.

Ques. 16. Is the punch and die x, the same kind as the one used for punching holes in those jails?

Ans. No; the hole in the die is too small; I make it a little larger that the punch may have more play, so that I can punch by hand.

Ques. 17. In making those jails for Mr. Baker, how were the rivets put in and riveted?

Ans. We stick them in, and rivet them down.

Ques. 18. Are the heads of the rivets on the inside or outside of the jail?

Ans. The most would be on the outside.

Ques. 19. In making the joint, like exhibit M, were the rivets flush with the inside of the plates?

Ans. No, sir.

Cross-examination:

159 Ques. 1. Is the punch xx and die x the kind used in those cells?

Ans. That is about the same as we used.

Ques. 2. Is not the die always larger than the punch?

Ans. Yes, sir; it is always larger than the punch. Further deponent saith not.

T. MOORMAN.

Deposition of R. Dumont.

Richard Dumont, being by me first cautioned and solemnly sworn, testifies as follows:

Ques. 1. State your age, residence, and whether you have been a worker in iron; and if so, for how long a time?

Ans. I will be 72 in December; I reside in Cincinnati; I have been a worker in iron since 1825, in steam engines and boiler work. Even since 1836, I have carried on a boiler yard, off and on, except the last five years I have not done much.

Ques. 2. Describe the methods known and in general use among iron workers, in which wrought-iron plates are joined together.

(Objected to by plaintiff's attorney as irrelevant.)

Ans. In making a boiler, we put one rim over the other, and put the rivet through. There is another way, where we put them together by countersinking, making a smooth surface on the inside.

Ques. 3. Look at exhibit M, annexed to claimant's deposition, and state whether or not you have known plates of wrought iron to be joined in the manner thereby represented; if yes, state how long that method has been in use.

(Objected to by plaintiff's attorney as irrelevant and leading.)

Ans. Yes, sir; these holes have not been countersunk; I can't tell exactly; I can't see, it may be. There can't be much of a countersink, if any. I have not had much practice in that; there has been a good many fashions since. I can't tell how long it has been
160 in use; it was in use a number of years before I quit the business, but I had not much call to do it.

Ques. 4. In joining plates of metal, as shown by exhibit M, are the rivets used countersunk or button head?

Ans. It is a button head in this exhibit M. We use both in joining plates.

Ques. 5. How long have the countersink rivets been in use for joining plates in that manner?

Ans. Ever since I have been in the business, in certain places, not in general.

Cross-examination:

Ques. 6. How do you countersink a plate?

Ans. We have what we call a countersink tube, like a drill.

Ques. 7. Do you countersink plates of iron by an ordinary punch?

Ans. You could n't do it on cold iron; you could n't do it on the iron in exhibit M; you would have to drill it or ream it.

Re-examination:

Ques. 8. What is a countersunk hole?

Ans. It is a hole so as to receive the head of the rivet up side down, so that when we hammer it down, it will exactly fill the hole, be flush with the plate. Further deponent saith not.

RICHARD DUMONT.

Deposition of Henry Diedling.

Henry Diedling, being first duly sworn, deposeth and saith:

Ques. 1. State your age and occupation, and how long you have been engaged in that occupation.

Ans. My age is 29; I am an iron worker; have been in the business about 6 years.

Ques. 2. Did you work upon the jail, erected in Portsmouth, Ohio, by T. F. Baker, in 1860?

Ans. Yes, sir; I did work on that jail.

Ques. Are you acquainted with its arrangement inside of the wall?

Ans. Yes, sir; we made a space that way to get our rivets in; that was the way I found it when I came up.

Ques. 4. To what space do you refer in your last answer.

Ans. The space between the cells and the wall.

161 How wide is that space?

Ans. Two feet wide.

Ques. 6. How far down does it extend?

Ans. It extends down 6 or 7 feet from the bottom of the cell.

Ques. 7. How far is it from the top of the cells to the bottom of the space between the wall and the cells?

Ans. It is about 25 feet, altogether. I can't tell exactly how far it is.

Ques. 8. Were you at Portsmouth while working on the jail? If so, did you remain there until the jail was completed?

Ans. I was there, and I did remain there until it was completed.

Ques. 9th. Were any means provided for getting from the top of the cells down into the passage between the cells and the wall? If so, what were they?

Ans. There was no way of going down, except you take a ladder; there was no door, or steps, or anything.

Ques. 10. Was any ladder put there when you were there?

Ans. There was only a ladder put there while we were putting the work up, and when we got through, we took it away.

Ques. 11. Look at the paper marked exhibit T. hereto attached as part of your deposition, and state what it represents.

Ans. It represents the way in which our cells are made in the Portsmouth jail. The part marked "a," represents the passage between the wall and the cell; the part marked "b," represents the cells on each side of the hall "c;" D represents the entrance doors, one on the first floor, and the other right above it, on the second floor.

Ques. 12. State whether there any means of passing from the hall "c," or the doorway "D," into the space "a"?

Ans. There are no means of passing down into that passage from those places. The only way to see down is to go on top of the cells.

Ques. 13. How long have plates of wrought iron been
162 joined together by a baton rivetted to the plates by one row of rivets on each side of the seam, as shown by exhibit M.

(Objected to by plaintiff's attorney as irrelevant.)

Ans. Ever since I commenced working for Mr. Baker in making jails; that is about 4 or 5 years. We don't put any batons on the inside of the partition, we lap there on the top, and bottom also.

Ques. 14. In joining the plates, as shown by exhibit M, do you use the button-head rivet or the countersunk rivet, or both?

Ans. Most of them are button head; places where we couldn't button head, there we rivetted them right flush down.

Ques. 15. How long have you known rivets made flush with the plates, to be used in making joints like exhibit M?

(Objected to by plaintiff's attorney as irrelevant.)

Ans. I saw them first at the Portsmouth jail; that was the first that I made; the others were all button head. I punched the holes so that they are wider on the bottom than the top; we made the die larger in order to make the hole larger on one side than on the other.

Cross-examination:

Ques. 16th. Did you use a punch with a large die, so as to make the hole larger on one side than the other in any jail, before the Portsmouth jail?

Ans. Yes, sir; I used a punch, but still it was not quite so wide as this, because we button set all the other rivets, and there was no use for it.

Ques. 17. Did you mean that you button set all the other jails that you made for Mr. Baker?

Ans. Yes, sir; in all the jails that I made, I never made any with countersinking, I always button set them.

Ques. 18. Did you work on the Lawrenceburg jail?

Ans. Yes, sir.

Ques. 19. Did you work on the New Albany jail?

Ans. Yes, sir.

Ques. 20. Did you work on the Hickman jail?

Ans. 20. Yes, sir.

Ques. 21. Did you work on the Helena jail?

163 Ans. I did not work on it down there; I worked at it here.

Ques. 22. In the Portsmouth jail, does not the neck or doorway marked F extend from the cells across the space, between the cells and the wall, to the outside of the wall?

Ans. It extends from the sheet iron on the front of the hall to the outside of the wall.

Ques. 23. Of what is the door frame made, and when was it made?

Ans. It is made of boiler plates of iron, and it was made here, in Baker's shop.

Ques. 24. What is the window frame G made of, and where was it made?

Ans. It was made of boiler iron, and in Mr. Baker's shop. It is a quarter of an inch thick, both in door and window.

Ques. 25. Is there not a skylight in the Portsmouth jail over the space on top of the cells, in the roof?

Ans. There is no special skylight; there is a frame of iron, with two plates of glass on each side about 18 by 24. And further deponent saith not.

HENRY DIEDLING.

Deposition of H. McCollum.

Hugh McCollum, of lawful age, being by me first duly sworn, deposeth and saith:

Ques. 1. State your age, residence, and occupation.

Ans. I am 29 years of age; residence, Cincinnati; am a plumber by occupation.

Ques. 2nd. Are you acquainted with the intended arrangements of the jail at Portsmouth, built in 1860 by T. F. Baker? If so, state how far the passage between the cells and the wall extends downwards.

Ans. I am acquainted with the internal arrangements of that jail.

The passage between the wall and cells extend down to the bottom of the cellar.

Ques. 3d. Are there any means of getting into that passage?

Ans. None that I recollect, only over the top of the cells.

Ques. 4th. Are there any means of getting from the top of
164 the cells down into the passage? If so, describe them.

Ans. What we used was a ladder.

Ques. 5. Who put that ladder there, and how long did it remain?

Ans. It was taken away before we got through. We put it up there whenever we wanted it; we used it merely to facilitate our work.

Ques. 6. What work did you do on that jail?

Ans. We did the plumbing.

Ques. 7. Look at exhibit T, now shown you, and state what it represents.

Ans. The plan of the Portsmouth jail.

Ques. 8. Describe the situation of the water pipes in the Portsmouth jail.

Ans. The soil pipe I comes down from the second floor to the first floor, joining the main soil pipe K in the cellar wall. There are eight of those pipes coming down. The pipe "H" is a water pipe which comes down and supplies 4 cells, two on the upper and two on the lower story. The pipes L are slush pipes that go into the end of the sewer pipes. The soil pipes, and the water pipes to supply the closets, pass down inside of the cells. The ones that run outside are the pump pipes and the slush pipes. All of the pipes pass over the top of the cells, and then down into the cells, or down on the outside. Those pipes that do not pass down into the cells come down on the outside in the space between the cells and the wall. There are three pipes that come down in that way. Further deponent saith not.

H. McCOLLUM.

Deposition of C. S. Rankin.

Charles S. Rankin, being by me first duly sworn, testifies as follows:

Ques. 1. State your age, residence, and occupation, and how long you have been engaged in that occupation.

Ans. I am 29 years of age; reside in Cincinnati; I am an iron worker, and have been in that trade between 13 and 14 years.

165 Ques. 2. State when you first saw wrought-iron plates used in making jails' cells.

Ans. I saw them at Mr. Baker's shop about 8 years ago. I think it was about the year 1853.

Ques. 3. By whom were those cells made?

Ans. They were made by T. F. Baker.

Ques. 4. What was the form and dimensions of the plate used?

Ans. That I can't remember, only that they were about 2 feet wide and 8 feet high.

Ques. 5. How high were the cells?

Ans. They were about 8 feet high, I think; they were as long as the cells were high, each plate.

Ques. 6. How were those plates joined together?

Ans. That I don't remember; I think they were lapped and riveted.

Ques. 7. When did you first see wrought-iron plates used in making jail cells united, as shown by exhibit M?

(Objected to by plaintiff's attorney, because it proceeds upon an assumption not yet proved.)

Ans. I saw them about 5 years ago, at Mr. Baker's establishment.

Ques. 8. Have you ever seen them united in that way since then, and if so, how often?

Ans. I have seen them very often, probably 15 or 20 times.

Ques. 9th. Have you ever seen rivets countersunk in making a joint of that kind in iron-plate jails? If so, when, for the first time?

Ans. I don't know that I ever saw them used in that way, more than the regular punch would make them.

Ques. 10. Did you ever see wrought-iron plates united by having their edges abutted, the seam covered on the outside by a baton or strip riveted to the plates by a row of rivets on each side of the seam, the rivets being countersunk so as to make a smooth surface, on any kind of iron work? If so, in what kind, and when did you first see it?

166 Ans. Well, I have seen it very often; I have done it myself years ago. There is nothing in it. Most any one in our business will tell you so. When we were making shutters, for instance, we abut them together and place a row of rivets, making them flush on the inside, presenting a smooth surface.

Ques. 6. State whether or not you worked on a jail erected at Princeton, Ills., by Mr. T. F. Baker. If so, state when that jail was erected, and how the cells were constructed and arranged in the building.

Ans. I worked on that jail; it was erected about 5 years ago. The cells were put up in a room, which was probably 20 by 30, and about 18 feet high. There were 8 cells in all, making, when together, the whole iron work 24 by 14, leaving a passage all around the iron work about 7 feet high. The entrance to the cell was on the 24 ft. side, and stood back to back. They were all made of boiler plate, except on the 24-ft. sides that was made of bar iron. The iron plates were about 2 feet wide and 7 feet high, running the full size hight of the cells. The ends of the jail in the 14-feet sides or ends was the only part of the boiler iron in uprigh position which was exposed to view. These plates were abutted together and covered with baton, with rivets on each side of the seam. The other parts of the boiler iron, if I remember aright, which was not exposed to view, was lapped and riveted. There was a passage, on an average of about 4 feet wide, between the cells and the wall. The drawing, exhibit U, is a very good plan of the iron work and room in which it is enclosed. No. 1s represents the cells; the 2s, the space between the cells

167 and the wall; the 3s, the wall surrounding the cells. Exhibit M represents the way in which the ends of that jail were made.

Ques. 7. State whether or not Mr. Jacobs, the plaintiff in this case, saw that work while it was progressing, and what conversation, if any, you had with him in relation thereto.

Ans. Mr. Jacobs saw the jail, while it was being made, in front of Mr. Baker's shop, in this city. Examining the ends of said jail, he remarked that we were putting a little extra work on it, or something to that amount; that the abutting of the sheets together was a good idea, good plan. This was said in such a way that I understood it was new to him, that he had never seen anything of the kind.

Ques. 8. Was there any water pipes in that Princeton jail? If so, mark their position on exhibit U.

Ans. Yes, sir; there were water pipes in that jail. They entered from the top; they came down from the center and branched off into the back corner of the cell.

Cross-examination:

Ques. 1. Were the rivet holes in the plates of the Princeton jail countersunk?

Ans. Nothing more than the usual countersinking that an ordinary punch does, which is about half countersinking.

Ques. 2. Are the holes countersunk in exhibit M?

Ans. Well, I call that about half countersunk. It is not straight, but it is countersunk somewhat; one side of the hole is larger than the other.

Ques. 3. In making the holes for the Princeton jail, did you use a punch tapering upwards, with an enlarged die for the purpose of countersinking the holes, or were they done by an ordinary punch?

We used the punch as there stated, which I call an ordinary
168 punch, not for the special purpose of countersinking. The punch that I mean is with a die larger than the punch, so that when the punch drops it forces the metal through, and makes a hole larger on one side than on the other.

Adjourned until to-morrow, Sept. 28th, 1861, at 10 o'clock a. m.

Sept. 28, 1861.

Cross-examination resumed:

Ques. 4. Look at exhibit marked x and x x, and state what they are.

Ans. They are punches and dies.

Ques. 5. Are they the ordinary kind for punching wrought-iron plates used for jail walls?

Ans. They are not; they fit too close.

Ques. 6. What do you say of the die x with the punch x x?

Ans. Well, I would call that the ordinary punch and die; there is no room to spare even in that.

Ques. 7th. Would that countersink the holes in quarter-inch boiler iron?

Ans. It would, partially.

Ques. 8. Which side of the hole would be the larger—the side next to the die or next to the punch?

Ans. The side next to the die.

Ques. 9. Look at the piece of iron marked exhibit 1, C. S. R., and state whether the holes are punched or drilled.

Ans. It is an old piece of iron and ground up. It is a hard matter to tell. I would not swear whether it was punched or drilled.

Ques. 10. What is your best opinion?

Ans. Well, I should think it was punched with a close fitting punch.

Ques. 11. Are the holes in said exhibit countersunk?

Ans. No; I should think they were not. If any, it is scarcely perceptible.

Ques. 12. Could such holes, or holes whose sides are as nearly parallel, be made in quarter-inch boiler iron by means of the die x and the punch x x?

Ans. Well, I could not answer that, scarcely. I should think
169 it would leave it a little more countersunk than it is. It depends somewhat on the iron that is punched.

Ques. 13. Of what firm are you a member?

Ans. Of Macy, Rankin & Co.

Ques. 14. Does your firm manufacture wrought-iron plate jails?

Ans. We do.

Ques. 15. Are you familiar with the making and fitting of punches and dies used in punching plates for jail work?

Ans. Yes, sir.

Ques. 16. Was the baton on the ends of the Princeton jail placed on the inside or outside?

Ans It was placed on the outside.

Ques. 17. Were the heads of the rivets inside or outside?

Ans. If I remember right, they were on the outside.

Ques. 18th. Were the inside ends of the rivets button-set or flush?

Ans. I don't think they were either; just rivetted down with a hammer, about half way between button-set and flush.

Ques. 19. Why did Mr. Jacobs take an interest in the construction of that jail?

Ans. I understood that he originally had the contract from the commissioners of Bureau county. For some reason or another being unable to build it, he, for a consideration, gave over the contract to Mr. Baker.

Ques. 20. Were not the plans for that jail prepared by Mr. Jacobs?

Ans. I do not know that they were; I do not know that they were not. I know that Mr. Baker made additions to the original plan, by which it was strengthened.

Ques. 21. Were the holes in the Princeton jail drilled or punched?

Ans. I believe they were punched.

Ques. 22. Are you sure?

Ans. I am not sure.

The direct examination resumed:

Ques. You say you know that Mr. Baker made additions to the original plan of the Princeton jail. State, if you can, what those additions were.

170 Ans. The bottom part of each cell had a large hall in the same, to let the water pipes pass through, which materially weakened the cell. To give additional strength to the same, there were wrought-iron bars placed 3 or 4 inches apart, ruuning parallel under the bottom of the cell under the jail floor. The frame work of the doors was also heavier than called for by plans.

Ques. Were the iron walls of the cells, as constructed, different in any respect from the original plan? If so, in what respect?

Ans. I do not know that they were, but suppose the ends were different, from *from* remarks made by Mr. Jacobs.

Ques. How are the holes in exhibit M made?

(Objected to by plaintiff's attorney as improper in re-examination.)

Ans. They were made by a punch.

Ques. What kind of a punch?

(Objected to for the same reason.)

Ans. An ordinary punch.

Ques. Are they countersunk?

(Same objection.)

Ans. Yes, sir; they are partially countersunk.

Ques. How long has the punch, which you call the ordinary punch, been in use for punching rivet holes in plates for iron jail work?

(Same objection.)

Ans. About 5 years, I think.

Ques. When the rivet holes in jails made by Mr. Baker, of which you have knowledge, were punched, what kind of a punch was used?

(Objected to as matter-in-chief.)

Ans. An ordinary half-inch punch.

Ques. Were the holes in exhibit 1, C. S. R., if punched at all, made with what you call an ordinary punch?

Ans. I think not.

Recross-examination:

In the deposition of Michael Clements I find the following questions and answers:

"Question 27. How are the holes in exhibit M made, and

171 by whom? Ans. They are made simply by punching them. The punching die is fixed so that they are made wider on one side than the other all the time. I punched the holes myself." and—"Question 42. Were the holes in exhibit M made with an ordinary punch? Ans. They are not made with an ordinary punch, but they are made countersunk with a die that is used for countersinking. The ordinary punch would have countersunk them a little, but not so much." Who ought best to know the kind of punch by which said holes were made, you or Clements?

Ans. All ordinary dies for punching jail work are made larger on the lower than on the top side. I understood his answer to mean the hole in the die, and not in the iron. Well, I should think my opinion would about equal his. The dies for jail work are generally made considerably larger than the punch. My idea is, that the punch used on jail work, in dropping down on the iron to be punched, moves a little from one side to the other. The hole in the die should, therefore, be made considerably larger than the punch, so as to avoid breaking the same.

Ques. Is there any reason why the die should be larger in relation to the punch for jail work than in punching boiler plates of equal thickness? Is the punch any more likely to strike the die in the one case than in the other?

Ans. I know nothing about punching plates for boilers.

Ques. Is there any reason why the die should be larger in punching wrought-iron plates for jail work than in punching wrought-iron plates of equal thickness for any other kind of work? Is the punch any more like to strike the die and break in the one case than in the other?

172 Ans. I should think there would be a reason for having the die larger in punching for jail work, because it slightly countersinks the hole, and makes it more difficult to cut out the rivet. I have never examined any machinery for punching boiler plate for other purposes. I know of no other reason, more than I think that the iron is not so apt to warp up.

Ques. Then, if any enlarged die be used only for the reason above stated, as between jail work and other kinds of work, would it not be used especially for countersinking?

Ans. I don't know that it would. The object is get a hole through as quickly as possible, and as cheaply as possible.

Ques. Who has built the most jails and punched the most holes, Clements or you?

Ans. I don't know.

Ques. Upon how many wrought-iron plate jails have you worked?

Ans. I have worked upon jails with plate and bar iron, both, about a dozen, partly made of plate and bar iron. Further deponeth saith not.

CHARLES S. RANKIN.

Deposition of Jas. Whitehead.

James Whitehead, being first duly sworn, deposeth and saith:

Ques. 1. State whether or not you worked upon a jail erected at Falmouth, Ky., by T. F. Baker.

Ans. Yes, sir.

Ques. 2. In what year was that put up?

Ans. I don't recollect in what year that was. It must have been 6 or 7 years ago.

Quest. 3. State of what material the cells were composed; how they were constructed and arranged in the building.

Ans. They were made of sheet-plate iron. They stand as shown in that plan, (pointing to exhibit V,) which is hereto annexed as part of this deposition. No. 1 is the wall. The space between the cell and the wall was 8 and 9 inches wide. The building was put up before I went there, and I can't say how thick the wall
173 was. No. 2 is the division between the two cells, about 8 or 9 inches. No. 3 is the cell.

Ques. 4. How were the plates forming the cells fastened together?

Ans. They were rivetted together. No. 4 is the wall of the cell.

Cross-examination:

Ques. 1. What was the space marked 2 left for?

Ans. It was left as a division between the cells for a wall to be put in.

Ques. 2. Where is the division shown between the cell wall and the wall of the building in exhibit V?

Ans. The space marked 5. You can make it if you please. It was 8 or 9 inches wide. It may be a little more, it may be a little less.

Re-examination:

Ques. 1. Was it intended that the space marked 5 should be filled by a wall or left open?

Ans. The intention was for a wall. Further deponent saith not.

his
JAMES + WHITEHEAD.
mark.

Deposition of C. T. Dumont.

Charles T. Dumont, being first duly sworn, testified as follows:

Ques. 1. Are you an iron worker? and if so, how long have you been in the business?

Ans. I am an iron worker, and have been working in the business about 25 years, and been carrying about 10 or 11.

Ques. 2d. Look at exhibit M, and state whether you have ever seen wrought-iron plates joined in the manner there shown. If so, when first?

(Objected to as irrelevant.)

Ans. I have seen iron joined together in that manner. I have done it myself some 10 or 12 years ago. I have done it myself at different times.

Ques. 3. How often have you seen that joint used?

Ans. Well, I can't say how often. I have seen it a dozen times; probably more.

Ques. 4. In making that kind of a joint, have you ever known the rivets to be made flush with the plates on the side opposite the baton? If so, when first, and how often?

Ans. The reason why I used that kind of joint was to get a
174 smooth surface on the inside. I countersunk my holes, and made the rivets flush with the plates. I did that first some 10 or 11 years ago, as long as that. I have done it a dozen times at least, probably more.

Ques. 5. Look at fig. No. 4, or exhibit K, and state whether or not you have seen iron strips or batons of the form there shown. If so, state for what purpose they were used, and when you first saw them.

(Objected to as irrelevant.)

Ans. I have seen strips of that kind several years ago, probably 6 or 7. They are what we call beads in our work. They are put on chimneys and firebeds of steamboats. They were used on chimneys as a stiffiner to strengthen them; sometimes to cover joints, which are lapped joints. They were made on firebeds as a stiffener and as an ornament.

Ques. 6. How are they fastened to the plates?

Ans. They are fastened with rivets.

Ques. 7. How are the rivets placed?

Ans. They are placed the same as fig. No. 4 in exhibit K, in the flange.

Ques. 8. How many rows of rivets?

Ans. One row on each side.

Ques. 9. How far through did the iron go?

Ans. Through two thicknesses of iron; through the flange, and through the plate.

Cross-examination:

Ques. 1. What do you mean by a lap joint?

Ans. It is one piece of iron placed on another. A lap joint in iron work we lay one piece of iron work over another about two inches, and rivet through both.

Ques. 2. Is a lap joint shown in fig. 4, exhibit K?

Ans. I don't see any lap joint there, unless you call that a lap joint with a bead on it; but that is not the kind of lap joint I spoke of though.

Ques. 3. Are the two plates, marked A and B, in No. 4, exhibit K, united by a lap joint?

175 Ans. Well, I am rather inclined to think I would call that a lap joint.

Ques. 4. Are those plates lapped one over the other?

Ans. They are lapped by a bead; there is where the joint is. That bead makes the joint.

Quest. 5. Were the plates in steamboat chimneys united in that way?

Ans. No, sir. The differance between them and this were, that instead of being abutted they were lapped.

Ques. 6. Are you familiar with punches and dies for punching wrought-iron plates?

Ans. I am familiar with them.

Ques. 7. Please look at the punch and die marked x, and those marked x x, and state if either or both of them are what is known in your business as ordinary punches and dies.

Ans. I don't see any difference in these and ours; only that the die is a little deeper. The punch is the same; only our punch is larger.

Ques. 8. What size rivets do you use?

Ans. We use from $\frac{3}{8}$ up to $\frac{7}{8}$.

Ques. 9. Does or does not the punch x fit too tight in the die x?

Ans. I shouldn't think it did; it is about right, I judge.

Ques. 10. When you made joints similar to M, with countersunk holes, how did you countersink the holes?

Ans. I had two ways to countersink them; one was with a drill; another was with a tool, what we call a countersink tool.

Ques. 11. Does you use that tool for punching the iron, or after it is punched?

Ans. After it is punched to make the countersink.

Ques. Are the holes in the piece of iron, marked exhibit 1, C. S. R,. countersunk?

Ans. No, sir.

Ques. How are those holes made?

Ans. I should judge they were made with a punch similar to x.

Ques. Is that the kind of hole that such a punch as x or x x would make?

Ans. Well, I should think it is.

Ques. 14. Would you such a punch as x x x with the dies x or x x?

Ans. I wouldn't. I don't know whether anybody else would 176 or not.

Ques. 15. Does the action of the ordinary punch in punching holes in quarter-inch plates countersink the holes?

Ans. It will not.

Ques. 16. How do you arrange the punch and die so that it may do it?

Ans. We let the die as it is, and we alter the punch; make a swell in the shank of the punch above the punch proper. As the punch goes through, it strikes the iron below and makes the countersink.

Ques. 17. Would the countersink be on the side of the die or on the opposite side?

Ans. It would be on the opposite side of course.

Ques. 18. Have you ever succeeded in making a countersink in that way in a cold plate of iron what was satisfactory?

Ans. Well, I have made countersinks in cold iron in that way. I have never made a great many in that way, but where I have they have answered the purpose. If we wanted a light countersink, we might make it in that way.

Ques. 19. What would you call such punch, a countersinking punch or an ordinary punch?

Ans. Well, I never had occasion to call it anything. The punch marked x would countersink, if it were driven down to the swell of the shank, and I call that an ordinary punch.

Re-examination:

Quest. 1. Suppose you use the punch x x x with the die x to punch holes in iron plates, would not the hole be countersunk on the side next to the die?

(Objected to as leading.)

Ans. Well, I can't see it that way.

Ques. 2. What kind of a hole will the punch and die x make, a countersunk hole or straight?

(Objected to because the witness has already answered it.)

Ans. It will punch both.

177 Ques. 3. How are the holes in exhibit M made?

They are made with a punch similar to x. They are not countersunk holes. It is not what I call countersinking.

Ques. 4. Are they the same width on both sides of the plate?

Ans. No, sir; they are not.

Ques. On which side are they larger?

Ans. I should say they were larger on the side next to the die.

Ques. 6. Would the punch x with the die x make a hole larger on the side next to the die than on the other?

Ans. No, it will not.

Ques. 7. Look at the piece of iron marked M M, and state how the holes are made.

(Ojected to as new matter.)

Ans. I think they were made with a punch similar to x x x, and a die x; I should judge from appearance, though I never saw any made that way, but I have no doubt, but that they were made that way.

Ques. 8. Are the holes countersunk; if so, on which side?

Ans. That is a countersunk hole, countersunk on the side next to the die, I should judge.

Ques. 9. In answer to question 9, you say that the punch x does not fit too tight in the die x; "it is about right I judge." For what purpose is it about right?

Ans. For the purpose of making a straight hole. Further deponent saith not.

C. F. DUMONT.

Deposition of G. Stacey.

George Stacey being by me first duly sworn, deposeth and saith:

Ques. 1. State your age, and occupation, and how long you have been engaged in that occupation.

Ans. My age is 49; my occupation is a general worker of iron, and have been engaged in it about 32 years.

Ques. 2. Look the fig. marked A, on exhibit C, and state whether you have ever seen strips of wrought-iron in the form there shown; if so, state their dimensions, when you first saw them, and the use to which they are applied.

178 Ans. I have seen such strips. The dimensions I couldn't say to an eighth of an inch; I should say it measured about $\frac{3}{8}$ of an inch in the corrugate, inside measurement. The plate from $\frac{1}{8}$ to $\frac{3}{16}$ of an inch. The width of the flanges about $\frac{3}{4}$ of an inch wide on the outside. I think it was about 15 feet long. The whole width would between $2\frac{3}{8}$ and $2\frac{1}{2}$ inches. When I first saw I first had them made, to the best of my knowledge, about 1856. I never saw them before. I had them made for a particular purpose. They were used to join iron together.

Ques. 3. What kind of iron were they used to join together?

Ans. Various kinds; boiler, sheet-iron, and various kinds of wrought-iron; I never used them on cast iron.

Ques. 4. Specify on what works, if any, you used them, and the dates when they were so used.

Ans. I used them on the Rush st. bridge in Chicago, I believe in 1856. I have used them on so many different works that I can hardly tell the different times and places. I used them on the Walnut st. bridge in this city, to the best of my knowledge, in 1860. Also on the Carr st. bridge in last December; also on the gas purifier in Cincinnati gas works about last July a twelve months, 1860, as near as I recollect.

Ques. 5. When you used them to join plates of boiler or other wrought-iron together, how were they fastened to the plates?

Ans. They were rivetted to the plate.

Ques. 6. Were the plates lapped or abutted?

Ans. They were abutted.

Ques. 7. How many rows of rivets were there?

Ans. Two; one row on each side of the baton or strip.

Ques. 8. How far through did they extend?

Ans. If I wanted to button head I should put them through
179 about $\frac{3}{8}$ of an inch or whatever it would be necessary to form the head. If I wanted to countersink them and rivet them down flush with the plate, I would make them shorter.

Ques. 9. State whether or not you used both of those methods of rivetting in fastening plates of wrought-iron with the corrugated strip?

Ans. Yes, I used both of the methods.

Ques. 10. Look at exhibit M, and state whether you have ever seen plates of wrought-iron joined in the manner there shown; if so, when first, and in what kind of work?

Ans. I saw that about 32 years ago in various kind of work. I have seen it in boilers, gas operators, iron ships, and different other works, so common that I could not tell how often I have seen it done.

Ques. 11. State whether you have ever seen plates of wrought-iron joined in the manner shown by exhibit M, the rivet holes being countersunk, and the rivets made flush with the plates.

(This question and the previous one objected to for irrelevancy.)

Ans. Yes.

Ques. 12. When did you first see them, and how often?

Ans. I may say with safety that I saw them 32 years ago. It is an every day occurrence to me to make them in that way.

Cross-examination:

Ques. 1. Does the corrugated strip in the Rush st. bridge, Chicago, Walnut and Carr st. bridges, Cincinnati cover a joint; if so, what kind of a joint?

Ans. It is, I may say, an open joint; the iron that that covers don't come together.

Ques. 2. Does the strip cover a joint in the purifiers in the gas work, and if so, what kind of a joint?

Ans. Yes. It covers a close abutted joint like exhibit M.

Ques. 3. In what work did you first use a corrugated strip to cover a but joint?

Ans. I first used it in America in the gas works in Cincin-
180 nati, that is in a close butt joint, about July, 1860, in the neighborhood of May, June, or July.

Re-examination:

Ques. 1. When were the plans of the purifier of the gas works in Cincinnati, in which you used a corrugated baton to cover a close joint, made?

Ans. Well, I couldn't answer that question.

Ques. 2. In answer to question No. 3. in your cross-examination, you say you first used the corrugated strip to cover a close abutted joint in America at the gas works in Cincinnati. Did you ever use it abroad for that purpose; if so, when first?

(Objected to as irrelevant.)

Ans. I did use it there about 30 years ago. Further deponent saith not.

GEORGE STACEY.

Adjourned until Monday, Sep. 30th, at 10 a. m.

MONDAY, *Sept. 30th*, 1861.

Deposition of J. P. Walton.

Joshua P. Walton, of lawful age, being by me first duly cautioned and solemnly sworn, deposeth and saith:

Ques. 1. State your age, residence, and occupation, and how long you have been engaged in that occupation.

Ans. I am 39 years of age; reside in Cincinnati; I have been engaged in the iron railing and jail business about 14 or 15 years, somewhere along there.

Ques. 2. When were wrought-iron plate jails first made, as far as you know, and how were they constructed? Describe fully.

Ans. The first that we made were about 8 years ago. They were made of boiler iron. They were made by rivetting the plates together, sometimes by lapping them and sometimes by abutting them together, as the case might be. They were abutted together, and a strip placed over the joint. Whenever we wanted to make a flush joint to make an even surface, we would abut them, put a strip
181 on the opposite side. When the plates were a little short, we always abutted them. When the plates were not large enough to lap, we abutted them. We used to rivet them with $\frac{3}{8}$ rivets; we would rivet them on an anvil. Sometimes we would countersink the holes, and sometimes we would not. When the sheets were abutted, there were two rows of rivets, one on each side.

Ques. 3. Did you ever make a cell of wrought iron plates in which the plates extended from the top to the bottom of the cell on the sides, and from side to side of the cell on the top and bottom? If so, when first?

(Objected to as irrelevant.)

Ans. Yes, we have made them that way, I can't recollect, but I think it was about 7 years ago, that we made a jail that way.

Ques. 4. In cells like that referred to in the last question and answer, how were the plates joined together?

Ans. In the sides of the cells they were lapped. The floor of the cells, I think, they were abutted, but I am not sure. I think the rivets were button headed.

Ques. 5. Have you ever seen plates of wrought iron joined in the manner shown by exhibit M, with the rivets holes countersunk with the rivets made flush to the plate? if so, when first, how frequently, and in what kind of work?

(Objected to as irrelevant.)

Ans. I have seen them where they were countersunk and flush on the face side, the side where the baton would be on. I have seen them very often; I couldn't tell you how often. Whenever it was necessary to do it, we have done it. It has been done invariably in door work, also in bank vaults.

Ques. 6. In putting up jails, did you ever leave a space
182 between the iron cells and the outer wall? if so, how large a space and for what purpose was it left?

Ans. Yes, they were generally put up before the walls was made, and then a space would be left about 3 or 4 inches. In putting up a single cell, we one time left a space of between 3 and 4 feet. These spaces were left for ventilation.

Ques. 7. Were those spaces ever used for receiving water pipes, running to or from the cells?

Ans. Well, there have been soil pipes, which are the same thing, put into them.

Ques. 8. When did you first make a jail in which such a space was left?

Ans. Some two or three years ago.

Further, deponent saith not.

J. P. WALTON.

Deposition of F. Monnig.

F. Monnig, being by me first duly examined and solemnly sworn, deposeth and saith:

Ques. 1. Are you a worker in iron; if so, how long have you been engaged in the business?

Ans. I am a worker in iron. I have had a shop for myself about 4 years. I have been in the iron business about 27 years.

Ques. 2. Have you ever seen iron jails in which the cells were made of plates extending from top to bottom, and from side to side, and joined by having their edges abutted and covered with a baton or strip of iron rivetted to the plates by two rows of rivets, one on each side of the seam, the rivet holes being countersunk and the rivets made flush on the inside of the cell?

(Objected to as leading.)

Ans. Yes, sir; I have seen them before ever I seen this country.

Ques. 2. Have you ever seen any of that kind of jail in this country?

Ans. Yes, sir; we was not so particular to make them flush,
183 but we countersunk them.

Ques. 4. Were any of the rivets made flush in the jails you refer to?

Ans. Yes, sir.

Ques. 5. What proportion of them?

Ans. The most of them were flush; if any of them were not quite flush, we didn't mind that, but we had to countersink them all, that was the orders.

Ques. 6. Why were the rivets countersunk and made flush?

Ans. We countersink by a countersink, or ream them out. The rivets were countersunk and made flush, so that you can't push them out.

Ques. 7. When did you first see a jail of that kind?

Ans. Will, I have to give you a different. In 1840, about that time I saw them used in bar iron. About from March to May, 1845, was the first I saw in boiler or plate iron. They were different in sizes, &c., from what they made here.

Ques. 8. When did you first see a jail of that kind in America?

Ans. Well, it is about 6 years, I couldn't say exactly the month or day, but it was about that time that we had to rivet them flush.

Ques. 9. How often have you seen them since?

Ans. Well, I don't see them much. I have seen 3 or 4 made by Valleau & Jacobs, and I have seen 2 of them made by Mr. Baker. It was once in the jail by the court-house; another on 6th st. side. It might have been the same job, I did not ask any body.

Ques. 10. By whom was that first jail that you have described made.

Ans. It was made by Horton—N. T. Horton.

Ques. 11. Were the other jails you have mentioned in your answer to question 9, rivetted in the same way as the jail made by Horton? if not, state the difference.

Ans. In the 6th st., I only stopped a few minutes and couldn't say.
In the court-house jail, the rivets were the same as Valleau
184 & Jacobs and Hortons, only at Horton's we didn't rivet them down quite so flush as Mr. Baker, not quite so nice.

Ques. 12. In the Horton jail, how was the rivetting at first commenced?

Ans. We commenced first rivet both sides with a head, and the architect or superintendent comes and said we had to countersink them. That is what he told me, because he wanted them countersunk so that they could not be punched out. His name was May. (Mr. Fisher, plaintiff's attorney, objects to conversation with the architect, or any body else.) That jail was put up at Shelbyville, Ind. I have been told that it went there by Mr. Horton.

Cross-examination:

Ques. 1. Did you ever make iron-plate jails for any body else but Mr. Horton in this country?

Ans. No, sir, I never did.

Ques. 2. How many did you make for Horton?

Ans. I don't know how many. I wouldn't say. The only large one we made was for Shelbyville.

Ques. 3. In your answers heretofore, when speaking of the Horton jail, have you always referred to the Shelbyville jail?

Ans. I give you questions. When we made that jail and Mr. May come and said that he wanted the rivets rivetted down flush, that was the Shelbyville jail.

Ques. 4. What part of the work did you do on that jail?

Ans. I was superintendent. I don't believe I did much myself, but had to tell the others how to do it. I was foreman, that answers the whole question.

Ques. 5. Describe exactly how the joints in that jail were made?

Ans. I needn't do it. It is to long, and I can't remember it, and I wouldn't. I know that we had to rivet them countersunk,
185 because May told us. What way they joined the top or joined the bottom, whether by the bars, it is to long, I can't say. We had to take a good deal of it apart and countersink and rivet it over again.

Ques. 6. State, as near as you can remember, how the plates were joined?

Ans. I needn't to state exactly. I can't, it takes to long. I have already stated. It was, as near as I can recollect, joined with a bar with two rows of rivets. I can't say exactly, no body can, 6 or 7 years ago.

Ques. 7. Was the bar on the inside or outside?

Ans. It was on the outside, I know that.

Ques. 8. How many cells were there in that jail?

Ans. I don't know. I forgot how many there were in that jail.

Ques. 9. What was the size of the cells?

Ans. I don know any more.

Ques. 10. What was the thickness of the iron?

Ans. I think it was a quarter thick. It was a quarter thick because we had to send some of the rivets back, they were too short.

Ques. 11. What was the size of the plates?

Ans. I don't know that, if I did, I could tell you right away the size of the cells.

Ques. 12. Was the hall between the cells or outside?

Ans. I don't know, I never was there, I told you so before. Some one else put them up, we made them at the shop.

Ques. 13. Was the floor of the cells iron or stone?

Ans. Iron. We set them down in the yard. I am not certain, it is too long a time.

Ques. 14. What year was the Shelbyville jail made?

Ans. Well, I think it was about 6 years, I told you before; about 6 years ago this time of the year.

Ques. 15. When the jail was put together at the shop, where did you put it up?

Ans. In the coal yard, right opposite the shop across the alley.

Ques. 16. Did you ever put up any other jails, with so many cells, in the coal yard?

186 Ans. I have put up some there, but not with so many cells.

Ques. 17. About how many cells were in those jails you put up?

Ans. I don't know how many were put up. No big jail was put up. We put up the walls for the custom-house on 4th and Vine with bars rivetted on the outside and inside too. We rivetted them flush, just like the jail. The outside is flush and the inside rivetted.

(The plaintiff's attorney objects to the latter part of the question after "We put, &c." I didn't want that in, I have made a mistake, I was to quick.)

Ques. 18. Who worked on the Shelbyville jail besides yourself?

Ans. Horton's hands.

Ques. 19. What were there names?

(Ojected to by defendant's attorney as irrelevant.)

Ans. All that I know by name is Hendrick Foelker.

Ques. 20. Where does he live?

(Objected to as irrelevant.)

Ans. I don't know exactly, some where on Longworth st.; that is what I hear.

Re-examination:

Ques. 1. You say in answer to question No. 17, on cross-examination as follows: "I don't want that in, I have make a mistake, I was to quick." Explain what you mean by that?

Ans. By rivetting those walls outside flush and the jail inside.

Ques. 2. What jail do you mean which you say, in your last answer, was rivetted on the inside flush?

(Objected to as an attempt, under cover of an explanation, to examine the witness anew upon matter-in-chief.)

Ans. I never said it was exactly flush, but it was countersunk. So much as I said it was the Shelbyville jail, so much as I know.

Further deponent saith not.

(Signed) F. MONNIG.

Deposition of J. R. Selden.

John R. Selden, being by me first duly cautioned and solemnly sworn, deposeth and saith:

Ques. 1. What is your present occupation?

187 Ans. Clerk in the county auditor's office.

Ques. 2. State in whose custody the papers and records relating to the bidding and contract for the work in the Hamilton county jail now are?

Ans. Well, I can't tell where the majority are. What remain are in the custody of the county auditor.

Ques. 3. Are the original bids for that work in the custody of the county auditor; if not, where are they?

Ans. They are not to be found. We have hunted in the office high and low for them, and they are not to be found.

Ques. 4. Is Enoch Jacobs, the plaintiff in this suit, a member of the firm of Valleau & Jacobs? if so, did that firm bid for any part of the work? if so, when?

Ans. I am not prepared to say as to whether he is a member of that firm. They bid for both the wrought and cast iron work. Their bid is dated April 30th, 1860.

Ques. 5. State whether or not that bid was in writing and where ought that bid to be found?

Ans. It was in writing and should be in the custody of the county auditor, where all bids are filed.

Ques. 6. State whether you have searched in the office of the county auditor for their original bid; and if so, whether or not you succeeded in finding it?

Ans. I have searched and have not found it.

Ques. 7. Have you ever seen the original bid, also look at paper marked exhibit J. R. S., hereto annexed as part of your deposition, and state what it is, when, and by whom it was made?

Ans. I have seen the original, and this is as certified to by the auditor; a copy made by me from the commissioners record.

Ques. 8. To what record do you refer in your last answer, and will you produce it and make it a part of your deposition?

188 Ans. I refer to volume 6, commissioners' minutes, Hamilton county, Ohio. I cannot make it a part of my deposition, because the books are not allowed to be taken out of the office except by a subpœna, and then one of the attaches of the office must go with it.

Ques. 9. From what materials are those minutes made up?

Ans. In cases of bids or contracts, they are made from the original documents.

Ques. 10. By whom are they made? Do they contain full copies of the bids and contracts?

Ans. They are made by a commissioner's clerk. They contain full copies of the contracts always, and of the bids, except in small ones, as culverts, &c.

(Counsel for complainant objects to all of the foregoing questions and answers, and to the paper marked J. R. S., as wholly irrelevant and immaterial to any of the issues in this case, and to said paper, because the defendant has failed to connect the same with the complainant.)

NOTE.—The objection above was not put until all the questions were put and answered. Counsel for complainant states that he was absent during the foregoing until the first 8 questions were put and answered.

JOHN R. SELDEN.

Deposition of T. Phillips.

Thomas Phillips, of lawful age, being by me first duly examined, cautioned, and solemnly sworn, deposeth and saith:

Ques. 1. State your occupation, and how long have you been engaged in that occupation?

Ans. Managing and running a rolling mill, manufacturing wrought iron. I have been engaged in the business some 10 years.

Ques. 2. Are you acquainted with Enoch Jacobs, the plain-
189 tiff in this suit; if so, state whether or not he is a member of the firm of Valleau & Jacobs; if so, how long has he been?

Ans. I am acquainted with him. I must tell you what I hear outside. I understood that Mr. Valleau and Jacobs were in company at one time. I understood there was a change in the firm a year or two ago, and that Mr. Valleau is carrying on alone now under the name of Valleau & Jacobs.

Ques. 3. What was Mr. Jacobs' business on the 30th of April, 1860, or about that time?

Ans. Well, I really don't feel competent.

(Question withdrawn.)

Ques. 4. Look at the piece of iron marked Phillips, and annexed hereto as part of your deposition, and state what kind of iron it is, when, by whom, and for whom it was made.

Ans. It is wrought iron. That piece of iron was made some 5 or 6 years ago. It was made by Phillips & Jordan. The rolls were got up for Mr. George Stacy.

Ques. 5. Does the piece of iron exhibited show the full length of the strips as rolled? If not, what was their length?

Ans. This does not show the length; they were rolled usually from 15 to 20 feet long.

Ques. 6. How much of that kind of iron have you manufactured; and what have you done with it?

Ans. I can't tell the exact quantity we have manufactured. We have filled Mr. Stacy's orders, and other orders, and always keep a stock on hand in the store to fill orders.

Further deponent saith not.

(Signed) THOMAS PHILLIPS.

Deposition of J. L. Hall.

Joseph L. Hall, of lawful age, being by me first duly cautioned and solemnly sworn deposeth and saith:

Ques. 1. What is your business, and how long have you been engaged in it?

190 Ans. My business is manufacturing fire and burglar proof safes, vaults, locks, &c. I commenced the business in 1845 and '46, and have been at it ever since.

Ques. 2. Have you ever joined plates of wrought iron in the manner shown by sxhibit M, with the rivet holes countersunk, and the rivets made flush with the plates on the side opposite to the strip or or baton? If so, when first, and how frequently, and in what kind of work?

(Objected to as irrelevant.)

Ans. Yes, sir; we have joined plates together in that manner ever since I have been in the business. Some countersunk, and some with the rivets sticking up. Our business requires a good deal of it; we

often would have plates left on our hands if we did not make them in that way. We do that to save the material, that we may work it up again; and it, therefore, saves the expense of buying new plates. We use it for building fire and burglar proof safes; and bank work where it called for it. I know that we have done it time and again, but I can't refer to the particular time now.

Ques. 3. When you used countersunk holes, to what depth did you countersink?

Ans. To various depths, owing to the thickness of the plates, sufficiently to hold the rivets when properly put in.

Cross-examination:

Ques. 1. How deep could you countersink in quarter-inch iron?

Ans. In quarter-inch we would countersink $\frac{2}{3}$ through.

Ques. 2. How do you make your countersinks?

Ans. We make then now by a brace and bit; we formerly made them by a punch, but the men broke so many that we thought
191 it would be cheaper to use a brace and bit. The way we come to use the punch was by seeing our neighbors use it on railroad iron, about the year 1846.

Ques. 3. How did you fit up the punch for countersinking?

Ans. The way we fitted it up, we were using a lever with screw punch, with heavy balls on the ends of the lever. The punch is of the shape in exhibit I, L. H; by throwing the lever around it would throw the punch down through the iron into the die below; by the punch going heavily down it left a countersink on the bar.

Ques. 4. In which side of the iron bar would the countersink be, on the side of the die or the opposite side?

Ans. On the opposite side. We never made any that would leave it on the die side.

Ques. 5. Was this what is known as the ordinary punch, or a punch made expressly for countersinking?

Ans. We considered it at the time as an ordinary punch. The only difierence was it was rounded off so that it would leave the impression of the punch coming into the iron. We have not used that punch for a number of years.

Ques. 6. Why was the punch rounded so as to leave its impression in the iron?

Ans. It formed a kind of a countersink hole, so that we didn't have to look around for our countersink. We sometimes then, afterwards, used the countersink.

Ques. 7. Then so far as you changed the shape of the punch, for what purpose did you change it?

Ans. We changed in order to form a countersink hole.

Ques. 8. What kind of a punch do you now use?

Ans. Exhibit J, L. H., No. 2, is about the shape of the one we would now use; it is what we call a straight punch.

Ques. 9. Does that countersink?

192 Ans. No, it does not.

Ques. 10. How does it fit, tight or loosely?

Ans. They were made to fit tight, otherwise there would be a burr on the iron.

Ques. 11. Look at the punches and dies x and x x and state whether they resemble the ones you use.

Ans. The dies are not exactly the same shape; the punches are similar, as near as I can tell.

Ques. 12. How is it as to the fit in the die?

Ans. Well, I can't see any differenc here from our punches, take them on an average at the present.

Ques. 13. Does these fit loosely enough?

Ans. I should think they did.

Ques. 14. What would you say of the fit of the punch x x x in the die x?

Ans. I don't know what to say; I never fitted a punch up in that shape. I should think it would make a singular kind of a hole. I shouldn't think it was made for that die; I should never have attempted to have used it on such a die.

Ques. 15. In making joints like exhibit M, when you countersunk the holes, on which side was the countersink?

Ans. It was the side opposite the bar, so as to get them flush on that side.

Ques. 16. Whereabouts would such a joint come in a safe, and which side would be outside?

Ans. It depends upon where we put it; if we put them on the inside or outside boxes or doors of the safe, as it is very frequently done and has been done ever since we have been in the business. In making our inside boxes we of-times put two plates together and form a bar behind them, and on the opposite side we make the rivets flush by countersinking and dressing the head of the rivet off. On
193 the outside box we would reverse it, and the flush surface would be on the outside of the iron. In the inner box the smooth surface is on the inside of the safe.

Ques. 17. What is the thickness of the plate of the inside box?

Ans. Our ordinary plates are No. 16 & 14 iron; we do use all the other grates up to $\frac{5}{8}$; I believe that is the heaviest we have used.

Ques. 18. What is the object of making the rivets flush on the inside?

Ans. To make a smooth whereby we could fit in our cabinet work.

Re-examination:

Ques. 1 In countersinking in quarter-inch iron did you ever countersink to the depth of the plate?

(Objected to as irrelevant.)

Ans. Yes, sir; we have done it, I may say almost every day, and have for many years. We have a kind of punch that countersinks it clear through the iron.

Ques. 2. How are the holes in exhibit M M made?

(Objected to as irrelevant, as new matter.)

Ans. I should take them to be made by a punch; I don't see how they could be made any other way.

Ques. 3. Are those holes countersunk?

Ans. Yes, sir; that is what I should consider a countersunk hole, countersunk by the punch.

Ques. 4. On which side are they countersunk, side next to the die or side next to the punch?

Ans. The side next to the punch, I should take them to be.

JOSEPH L. HALL.

Adjourned until Oct. 1st, 1861, at 10 a. m.

OCT. 1st, 1861.

Deposition of J. K. Mullen.

Joseph K. Mullen, of lawful age, being by me first duly examined, cautioned, and solemnly sworn, deposeth and saith:

Ques. 1. What is your present occupation, and how long have you been engaged in it?

Ans. I am not doing anything at present; I was a clerk in the auditor's office of Hamilton county from March 7, 1860 to March 2, 1861.

194 Ques. 2. By whom was the minutes of the board of county commissioners, in relation to the bids for the work on the Hamilton county jail made up, and from what material?

Ans. They were made in the blotter by John R. Seldon, and I copied them in the regular minutes from the bid; I did that so as to make it sure, and it was plainer.

(Question and answer objected to for irrelevancy. The same for all those that follow.)

Ques. 3. Among those bids was there any signed by Valleau and Jacobs? If so, was that copied into the minutes, if so, into what volume, and by whom?

(Same objection.)

Ans. There was a bid there signed by Valleau & Jacobs. I copied them into the minutes in volume No. 6; I can't recollect the date.

Further deponent saith not.

(Signed) JAS. K. MULLEN.

Adjourned until Tuesday, Oct. 2, 1861, at 10 o'clock a. m.

I, Edwin Cox, notary public, do hereby certify that Isaiah Rogers, Michael Clements, Richard Dumont, Henry Diedling, Hugh McCollum, Charles S. Rankin, James Whitehead, Charles T. Dumont, George Stacy, Joshua P. Walton, F. Monnig, John R. Selden, Thomas Phillips, Joseph L. Hall, Joseph K. Mullen, and Theodore Moorman, were by me severally sworn to testify the truth, the whole truth, and nothing but the truth, and that the depositions by them respectively subscribed, as above set forth, were reduced to writing by myself, in the presence of the witnesses respectively, and were respectively subscribed by the said witnesses in my presence, and were

195 taken at the time and place in the annexed notice specified; that I am not counsel, attorney, or relation of either party, or other-

wise interested in the event of this suit, and commenced at the time in the notice specified, and continued by adjournment from day to day as above stated.

[SEAL.] EDWIN COX, *Notary Public.*

Notary's fees $25 00; paid by T. F. Baker, defendant.

These depositions go in evidence without sealing or enveloping, subject to proper exceptions for competency and relevancy, and so with their exhibits.

April 16th, 1862.

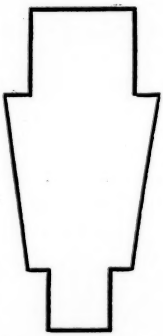
LEE & FISHER,
For Jacobs.

Exhibit J. L. H.—No. 2.

This exhibit attached to J. L. Hall's deposition.

EDWIN COX,
N. P.

Exhibit J. L. H.—No. 1.



Attached to J. L. Hall's deposition.

EDWIN COX,
Notary Public.

196 UNITED STATES OF AMERICA,
Southern District of Ohio, ss:

I, John McLean, clerk of the circuit court of the United States for the seventh judicial circuit, and southern district of Ohio, do hereby certify that the foregoing transcript is truly taken and copied from the records and papers as the same are kept and on file in this office.

In testimony whereof, I have hereunto subscribed my name and set the seal of said court, this 9th day of May, A. D. 1866, and in the 90th year of American independence.

Attest:

[SEAL.] JOHN McLEAN, *Clerk.*

Allowance of Appeal.—N. 105.

197 And afterwards, to wit: on the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and

sixty-six, an entry was made upon the journal of our said court in the words and figures following, to wit:

"ENOCH JACOBS
vs.
THOMAS F. BAKER.

"This day came the complainant, by his solicitor, and prayed that an appeal be allowed him from the decree heretofore rendered in this cause, to the Supreme Court of the United States, and that security therefor be fixed.

"Thereupon, it appearing to the court that the former allowance of appeal has become void, the court allows said appeal, and orders complainant to give good and sufficient security to prosecute his said appeal to effect, and answer all damages and costs if he fails to make his appeal good, in the sum of five hundred dollars."

And afterwards, to wit, on the thirtieth day of November, in the the year last aforesaid, came the said complainant, by his counsel, and filed in the clerk's office of the court aforesaid his appeal bond, which said appeal bond is in the words and figures following, to wit:

Appeal bond.

Know all men by these presents, that Enoch Jacobs, principal, and William L. Evans, surety, are held and firmly bound unto Thomas F. Baker, his heirs, executors, and administrators, in the penal sum of five hundred dollars, to the payment of which, well and truly to be made, they do hereby bind themselves, their heirs,
198 executors, and administrators, jointly and severally, firmly by these presents.

Sealed with their seals, signed and dated this 30th day of November, A. D. 1866.

The condition of this obligation is such that, whereas, on the 1st day of April, 1861, the said Enoch Jacobs filed his bill of complaint in the circuit court of the United States for the southern district of Ohio, against Thomas F. Baker, numbered 1,392, in said court, and said cause proceeded to a hearing; and afterwards, to wit, on the 4th day of November, 1862, the said bill was dismissed at the cost of the complainant; and the said complainant praying an appeal to the Supreme Court of the United States, an appeal was allowed upon complainant's filing an appeal bond in the sum of five hundred dollars:

Now, therefore, if said complainant shall, with all practicable speed, cause a transcript of the record of said cause to be filed with the clerk of the Supreme Court of the United States, and prosecute his said appeal to effect, and answer all damages and costs if he fail to make his appeal good, and abide by all orders and decrees which may be made and rendered by the said Supreme Court of the

United States, then these presents shall be void; otherwise to be and remain in full force, virtue, and effect.

Witness our hand and seals the day and year first above written.

[SEAL.] ENOCH JACOBS.
[SEAL.] WM. L. EVANS.

In presence of—
W. A. LOTT,
A. HONIBURG.

I approve this bond.

H. H. LEAVITT.

199 THE UNITED STATES OF AMERICA,
Southern District of Ohio, ss:

I, John McLean, clerk of the circuit court of the United States within and for the district aforesaid, hereby certify the foregoing entry and bond to be truly taken and copied from the files and records of said court, as the same are kept in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court this 25th day of March, A. D. 1867, and in the 91st year of American independence.

Attest:

[SEAL.] JOHN McLEAN, *Clerk.*

200 The United States of America, Supreme Court of the United States to Thomas F. Baker, greeting:

Whereas, Enoch Jacobs obtained the allowance of our writ of error to the judges of the circuit court of the United States for the southern district of Ohio, directed to remove into the said Supreme Court, to be holden at the city of Washington, on the first Monday in the month of December next, the record of a certain plaint, process, proceedings and judgment in a suit in equity, wherein you, the said Thomas F. Baker in that action lately recovered against the said Enoch Jacobs a dismissal of his said bill and costs, as by the said record in the said circuit court remaining appears, in which said record and proceedings, and also, in the rendition of the judgment thereupon, manifest error hath intervened, as by the said Enoch Jacobs we are informed, and our said writ of error granted, issued, and allowed as aforesaid, for the purpose of correcting the errors aforesaid alleged, if any there be. You are, therefore, hereby commanded and cited to be and appear before the judges of the said Supreme Court at the city of Washington, at the next term of said court, to be holden on the first Monday in the month of December next, to have the errors aforesaid corrected, and the judgment of our said Supreme Court thereupon.

Witness, the Honorable Salmon P. Chase, Chief Justice of the United States of America, this 30th day of November, in the year of our Lord one thousand eight hundred and sixty-six, and of the independence of the United States of America the 91st.

H. H. LEAVITT,
One of the Judges of said Court.

Southern district of Ohio, ss:

James Moore, being first duly sworn, on his oath says, that he served a true copy of the within citation on Thomas F. Baker, the within named, personally, at his residence in said district, on the 1st day of December, 1866.

JAMES MOORE.

Sworn to and subscribed before me this 1st day of December, 1866.

E. G. HALL,
Not. Pub. Ham. Co.

Supreme Court of the United States,

DECEMBER TERM, 1868.

ENOCH JACOBS, *Appellant,*

vs.

THOMAS F. BAKER, *Appellee.*

BRIEF FOR APPELLANT.

Wilstach & Co., Printers, 32 Vine Street, Cincinnati, O.

Supreme Court of the United States,

December Term, 1868.

ENOCH JACOBS,
Appellant.
vs.
THOMAS F. BAKER,
Appellee.

Appeal from the Circuit Court of the United States, for the Southern District of Ohio.

ARGUMENT FOR APPELLANT.

STATEMENT OF CASE.

This is a suit in equity, seeking relief for the infringement of four separate patents granted to complainant. The bill was filed April 1st, 1861. It avers that a patent was granted to complainant, June 7th, 1859, for a new and useful "Improvement in the Construction of Prisons."

That a second patent was granted to him December 20th, 1859, for a new and useful "Improvement in Iron Plate Jails."

That a third patent was granted to him February 21st, 1860, for new and useful "Improvements in Joining Plates of Metal;" and

That a fourth patent was granted to him July 24th 1860, for a new and useful "Improvement in Iron Prisons."

The bill avers that each patent has been infringed by the defendant, and prays for a perpetual injunction and an account of profits.

Defendant filed his answer July 13th, 1861.

Replication was filed July 29th, 1861.

The answer, denies that defendant infringes the first patent of June 7, 1859, and admits the infringement of the three other patents, by making 144 iron cells for the jail of Hamilton County, Ohio.

He, however, avers that all of the patents are void for want of novelty.

As the first answer did not sufficiently specify the places where, and the persons by whom the several supposed prior devices were used, the defendant filed an amended answer to make the averments as to want of novelty more specific. As this amendment was not made until after the proofs had been taken and the case argued on final hearing, it may be presumed that it contains all the specifications upon this point, which the defendant deemed material to his case.

As to the jails named in the original answer, but not referred to in the amended answer, it may be sufficient to say that, either no proof was offered as to their character, or they were so clearly shown not to involve any of the patented features, that they took no part in the controversy.

The case presents four separate and distinct questions, and is, in fact, four distinct suits, each based upon one of these separate patents. We will treat them as separate cases, and speak of each in the order of date of the patents.

FIRST PATENT—*June* 7, 1859.

Secret Passage, or Guard Chamber.

INVENTION.

This patent was for a "Secret Passage, or Guard Chamber around the outside of an iron plate jail, and between said

jail and a surrounding enclosure, constructed and arranged substantially as described for the purposes set forth," and is shown in plates, I and II in the present brief.

The mode of construction described is, that this passage shall intervene between the iron plate jail and the masonry or wall of the building and encircle the jail, passing entirely around it on the outside of the jail and inside of the wall. It will be understood that the jail proper is a separate inclosure, or room of itself, built independent of the building, and back from the wall, leaving an open space around between the jail and the wall. The purpose of this open space is said to be that "the person in charge of the jail and prisoners confined therein, is enabled to keep a continued and perfect inspection of the entire outside of the iron jail, to detect any attempts to escape on the part of the prisoners, or overhear any conversation passing between them, and to regulate the supply of water to the cells. He is also enabled to inspect the discharge water pipes, which pass from the cells immediately under the floor of the chamber, so that any disarrangement or stoppage may be placed in order or repaired without delay or difficulty."

Another purpose of this passage the patent states, is to enable the jailor or keeper upon the outside of the jail and in the passage, to hear the conversation or whispers of the prisoners on the inside of the jail, and thus hear, "without the knowledge of the prisoners, everything transpiring within the cells."

This secret passage is obviously independent of and in addition to the main hall, which may or may not have existed before the invention, and whether this hall ran of old between some of the cells or around the wall, would make no difference, for the patent shows and counts upon such a hall in addition to this secret passage or guard chamber. The purpose of this passage is distinct and independent of the hall.

It is true that the patentee shows, in his drawing, a jail constructed nearly square or in the form of a parallelogram; but it is obvious that he has nowhere counted upon either the form of the jail, the form of the building which incloses it, or the size or form of this secret passage. It becomes apparent, by a glance at the structure or a thought of its purpose, that the form, size and shape of the building, the jail, or the passage may be changed, in almost every possible manner, and yet the purpose of the inventor will be attained.

It was only necessary for the inventor to describe one proper mode of attaining his purpose, and having described that he became entitled to be protected against all other modes not substantially different from his. *Curtis on Pat.* § 220. *Winans* vs. *Denmead*, 15 How, 339.

NOVELTY.

In order to defeat this patent for want of novelty, we must find, first, an iron plate jail existing before the invention; and second, this jail must have a secret passage between it and the wall of the building. Now the iron plate jail is itself quite new, and it may well be supposed that to find it in connection with this passage, would be a difficult task.

The answer alleges knowledge by Isaiah Rogers, Thomas F. Baker, Michael Clements and Charles S. Rankin, and use in the jail *designed* by Rogers for Hamilton County, and in the jails of New Albany, and Lawrenceburg, Indiana, and Princeton, Illinois. Also, that the invention was described in a public work, to-wit: Certain plans, drawings and specifications, designed, drawn, and written by Rogers, submitted by him to the Commissioners of Hamilton County, and by them accepted, and published and publicly made known, as the plans according to which the proposed jail was to be built. Also, that all of the patented devices were described in certain *other* drawings, plans, etc., representing a jail which has

been actually erected in Hamilton County, which were completely designed on or before June 6, 1856, except as to the details of the cells therein, which were completed *on paper*, on or before Dec. 19, 1859, though long previously designed in full.

As to the jails at New Albany, Princeton and Lawrenceburg, referred to, it is sufficient to say, that they contained no hint of this invention. Ground plans of each of them are shown in plates III, IV, and V. Plate III, represents the New Albany jail, and shows merely an exterior hall, but not an exterior secret guard hall or chamber, *in combination with* an interior hall. There is no interior hall in this jail. The same is true of the Princeton jail, plate IV. The Lawrenceburg jail, plate V, has an interior hall, but no exterior guard chamber.

But it is said that this invention was made by Isaiah Rogers, the jail architect, before the invention of Jacobs. To this we reply, first: There is no sufficient allegation in the answer to justify this proof. Second: No such invention by Rogers is proven. Jacobs filed his application for this patent, April 15th, 1859. See certified File Wrapper, from Patent Office. And he made his invention of course before this.

James Egan (Record page 50,) testified that jails were put up by Jacobs with the guard chamber, as early as June, 1859.

But Rogers matured and perfected no plan for the jail which was ever afterward adopted, till December, 1859; which plans were not lithographed or engraved till March or April, 1860. See answer of Rogers to questions 47 and 48. Though Rogers testifies that plan "F," referred to in his deposition, was sketched in 1851; that plans "A" and "B" were sketched in 1857; that plan "H" was begun June, 1856, none of them were perfected till November, 1859.

Then plan "I" was made. See answer of Rogers to question 29. From this were made, in March or April, 1860, lithographs "B" and "C." See answer of Rogers to question 31. For though Rogers claims he had general plans, from 1851, drawn; he admits, in answer to questions 33 and 34, that no details were settled till December 2d, 1859, and nothing put on paper till December 19th, 1859. He also testifies positively, in answers to questions 41, 42 and 43, that no jail was in fact ever built according to plans "A," "F" or "H." The first settled plan of the jail is then, according to Rogers, to be found in exhibits "I" and "H," of November and December, 1859, and in lithograph "B" and "C," of March or April, 1860, whereas Jacobs' invention was matured and applied for April, 1859, one year previous, and Jacobs had actually built jails as early as June, 1859. There can be no doubt then, even if the inventions were each perfect and identical, that Jacobs has the priority. Again, no mere plan in sketch could defeat this patent. To defeat this patent something must be *done*. A jail must have been made, not merely one imagined. The man who first reduces his invention to a fixed, positive and practical form, is entitled to the priority. See *Reed* vs. *Cutter*, 1 Story, 590; *Curtis on Patents*, *sec.* 43; *Judson* vs. *Moore*, 1 Fisher, p. 544; *Cahoon* vs. *Ring*, 1 Fisher, p. 397; *White* vs. *Allen*, 2 Fisher, 440; *Ellithorpe* vs. *Robertson*, 2 Fisher, 683.

The doctrine of these cases is: 1. That an invention to defeat a patent, must be reduced to *practice*, and 2. That a mere drawing or sketch is not such a reduction to practice.

This is not helped by calling Mr. Rogers plans a "publication." The language of the act is, "a printed publication," and the plans of Mr. Rogers were not "published" in any such sense as to be the equivalent of a printed book.

In the present case, nothing was ever embodied in materials, like Jacobs' invention, by Rogers, before Jacobs' in-

vention and application, nor was anything ever settled and drawn out fully on paper till after the application.

The public had taken nothing by Rogers' pretended invention, and if no jail had been built, there is no reason to suppose that his ideas would ever have been communicated to them.

INFRINGEMENT.

The next inquiry with reference to this patent, is:

"Is the Hamilton County Jail substantially the same as that described in this patent? Has it this passage?" By turning to the drawings referred to in the deposition of Isaiah Rogers, and shown in plates VI and VII, in which the interior hall is marked A, and the exterior guard chamber, B, the existence of this passage is apparent. And, in answer to questions thirty-seven and thirty-eight, the witness, (Rogers) says:

"No one prisoner can see another in the whole building, while in his cell. The space or passage between the cell and the wall is about twenty inches wide and clear. On the first story it is intended to be closed by a door, diagonally from one cell to the other; that door opening out from a closet between the two cells. The space in the three upper tiers of cells will be a close partition without a door."

But the depositions of the witnesses, Wm. Clough, and J. B. Elliot, conclusively prove the infringement. Both witnesses are skillful experts. Both have examined the jail, and both swear positively that it does infringe this first patent. An inspection of the models to which these witnesses refer, proves the infringement at a glance. The entire purpose of the patentee is attained in the Hamilton County Jail by means of this same secret passage or guard chamber, with only a variation of form from the parallelogram described by the patentee, to the triangle adopted by defendant. No witness on the part of the defendant disputes or denies this

infringement. The right of recovery under this patent would seem to be beyond dispute.

SECOND PATENT—*December* 20, 1859.

AN IMPROVED IRON WALL FOR JAILS AND PRISON HOUSES, CONSISTING OF THE COMBINATION OF ENTIRE WALL PLATES WITH ABUTTED JOINTS AND COUNTERSUNK RIVETS.

INVENTION.

This patent is dated December 20, 1859. The application March 3, 1859. The improvement was put into actual use March 4, 1859. See deposition of James Egan, Record, pp. 48–49, questions 6, 24 and 25.

This invention requires that the two plates shall be brought up even with each other and abutted togethor, (not lapped.) Then over the seam between the plates is put a strip of iron, which is riveted over this seam by rivets having their holes countersunk from the inside of the jail, so that the inner surface of the jail will be perfectly smooth, and no prisoner can tell where the rivets in fact are, and if he did know could not drive out the rivets because the countersink prevents this, making it impossible to remove the rivets by force from the inside of the jail. The patentee states that his object is, that "said structure may be substantial, strong and durable, and most effectually prevent the escape of persons confined therein," &c.

Each of these features is important. The plates must be *entire* wall plates, extending from top to bottom, and avoiding transverse seams or cracks. The edges must be abutted, not lapped, so that no projecting edge is left under which the prisoner can insert an implement to pry them apart. The batten on the outside secures these plates together by means of the rivets. But if these rivets were headed either by hammering or with button heads on the inside, the prisoner could cut them off. They are, therefore,

countersunk, that is, a bevil is cut around the hole to the depth of the plate, the rivet flares in that bevel, and is then made smooth or flush with the surface of the wall plate, so that no projecting edge offers a point for the action of the prisoner's chisel. This arrangement is shown in plates VIII and IX, where the entire wall plates, A, A, are shown in Fig. 2, and the joints, battens, and countersunk rivets, are shown in Fig. 4 and Fig. 5.

NOVELTY.

The amended answer, alleges that the device covered by this patent was known to defendant, Baker, and used by him in Cincinnati, Portsmouth, Ohio; New Albany, and Lawrenceburg, Indiana; Hickman, Kentucky; Palmyra, Missouri; and Princeton, Illinois; to Isaiah Rogers who used it in the Hamilton County Jail. To Michael Clements and Theodore Moorman, and Charles S. Rankin, workmen of Baker. To Richard Dumont, at his own workshops. To C. T. Dumont, in lard kettles, tanks, etc. To George Stacy, in iron bridges and other iron work. To Joshua P. Walton, in iron plate jails, bank vaults, and other iron works at Cincinnati. To P. Monnig, at the workshop of himself, and of N. T. Horton, in Cincinnati. And to Joseph L. Hall, in iron plate bank vaults, in Cincinnati.

To defeat this patent it is necessary that the defendant should prove the prior existence of jails containing the combination of the four following elements:

1. Entire wall plates.
2. Joints formed by abutting the edges of the wall plates, and not by tapping them.
3. Joint plates or battens outside the seam.
4. Countersunk rivets.

The whole constituting an "improved iron wall for jails and prison houses."

Some proof has been offered as to the new Albany Jail. Michael Clements, called by defendant, testifies that this jail was made by defendant in 1858, and that he worked on it. He does not clearly describe it, and though his testimony fails to prove that it possessed the patented features, complainant has settled its character beyond doubt, by the depositions of Dudley D. Byrn and Thomas P. Cox, with their drawings and exhibits. Byrn is the late Auditor at New Albany, Floyd County, Indiana, and was acquainted with the contract of defendant, under which he made this jail, in 1858, and testifies that it remains unaltered. Cox testifies that he is a boiler maker, residing at New Albany ever since the jail was made; that he has carefully examined the jail, that all its floors and ceilings have *lapped* joints, and the rivets are *none of them countersunk any where in the jail*, and he produces a rivet as proof of the fact.

It is at once obvious, on inspection, that the rivets are not countersunk, and that all the holes are parallel, as the witness states; besides, most of the joints are lapped instead of abutted.

There is nothing in this jail, then, which in any manner affects the plaintiff's patent.

The Lawrenceburg Jail is too late to affect this patent, having been commenced in the summer of 1859, and finished the last of 1859 or first of 1860. (See depositions of James Egan and Edward A Coriger.) Coriger, the sheriff, swears the jail is unchanged. Egan saw the jail when building, and has since carefully examined and measured it, and he produces a drawing of it, and testifies that the ceilings of the cells have mostly lapped joints; that the rivets are not countersunk, but that their heads actually protrude upon the *inside* of the cells. Nothing could be farther from the idea of the patentee.

The Hickman Jail was not built until December, 1859. (See Record, p. 90. Deposition of Michael Clements.)

No proof is offered as to the construction of the cells in the Palmyra Jail.

As to the Princeton Jail, the only witness of defendant who speaks of this jail at all is Charles S Rankin. He is not definite as to the structure of this Princeton Jail; but his evidence would be sufficient to raise the suspicion that the walls of the Princeton Jail were like the patent, although from his relation to defendant, the lapse of time and the vagueness of the witness, he does not of himself make sufficient proof to defeat the patent. Fortunately the case does not stop here, but the complainant in person has visited Princeton and produces the depositions of Joseph W. Huntington and Joseph V. Thompson, together with a drawing of the Princeton Jail and some of the original rivets thereof.

Huntington is an intelligent blacksmith, who lived at Princeton in 1855, when the jail was built, and has lived there ever since, and says that the jail is unchanged; that he has measured it carefully and examined its rivets, and he produces a rivet taken by him from the jail. He testifies the rivets are none of them countersunk, as the one shown obviously is not; that the rivet shown is a fair sample; that he can "drive out half of the said rivets in the end walls of said jail, by setting a punch against the button-setted end on the inside, without cutting the rivet with a chisel;" that the holes are parallel, and "floors, ceilings and divisions have the edges of the plates of iron composing them lapped one upon the other about two inches and riveted together."

The witness, Joseph B. Thompson, was the late Clerk of the Princeton Court and also Clerk of the Board of Supervisors of the County. He testifies to his knowledge of the jail and the contracts about it; says the jail is unchanged; that the two long fronts of the cells are constructed of bar iron instead of plate iron, as described by the patentee; that the bars cross and form lattice work, and that no countersunk rivets were contracted for.

We may then dismiss this jail by saying it is proven conclusively to have no element of the patented invention in it.

The only remaining jail is that at Portsmouth, Ohio. It was made in October, 1860, and, therefore, in no way affects this patent. Still the depositions of Michael Byerly, George W. Flanders and John L. Ward show what the jail is, and prove it destitute of countersunk rivets.

Plate X, on the opposite page shows the manner in which the plates were lapped and rivited in the New Albany, Lawrenceburg, Princeton and Portsmouth Jails. The plate is a copy of the exhibits attached to the depositions of Huntington, Cox, Byerly, Egan, Clements and others, and shows in one form the lapped joint with the rivet, and in the other an abutted joint with the rivet butten-set or riveted on the inside, but not countersunk.

The remainder of the defendant's proof in relation to this patent, was offered to show that iron plates for other than jail purposes have been abutted together, and joined by a batten and countersunk rivets before the complainant's invention. If this were true, we claim it in no way affects this patent, for the patent is for a combination of "entire wall plates," abutted and joined together by a batten with countersunk rivets; and to defeat this patent defendant must show the combination to be old, and prove, not that other strips of iron have been thus joined before, but that "entire wall plates" have been so formed before.

See opinion of Judge Morsell granting this patent.

Turrill vs. *Railroad*, 1 Wall, 491.

When it is remembered that this case was decided in 1862, before the decision of *Turrill* vs. *Railroad*, and by the same learned Judge who sat in that case on circuit, the nature of the error which resulted in a decree for the defendant under this patent will be apparent.

I have not discussed the question whether a hole can be sunk in a plate of iron by a punch alone, if the punch be loose and smaller than the die, because we do not consider it at all material. The second deposition of Isaiah Rogers proves that these holes in the plates were not sufficiently countersunk by the punch, and, therefore, he compelled the defendant to tear down the cells and countersink the holes by a separate drill or countersink. (See answer of Rogers to question 6 in second deposition)

This evidence concludes the defendant on the question, and shows that the holes are countersunk after punching by a separate instrument. It matters not then what the effect of punching may be, since it did not in this case prove effectual.

INFRINGEMENT.

The infringement of this patent is not denied by the answer. It is also fully proved by the testimony of Rogers, p. 68, and of Zimmerman, p. 66.

THIRD PATENT—*February* 21, 1860.

CORRUGATED BATTEN.

INVENTION.

The invention claimed under this patent consisted in giving to the batten described in the last patent a semi-cylindrical form just over the seam, so as to form a tube. It is well shown in the drawing, Plate XI. The advantage of the corrugation or tubular joint is to convey sound, to produce greater stiffness, to convey water pipes, as well as for ornament. The invention was made early in 1859. See testimony of C. M. Valleau Record, p. 59.

NOVELTY.

The answer alleges that this invention was known and used prior to the invention of Jacobs, by Isaiah Rogers, George Stacy, Charles T. Dumont and Thomas Phillips.

As to the prior use and knowledge by Stacy, Dumont and Phillips, it is sufficient to say that no one of them proves, or attempts to prove, that this batten was ever applied to abutted joints, or to jail walls, before Jacobs invented and used it. The earliest proof of any American use of any corrugated batten, is made by George Stacey and Thomas Phillips, at the Gas Works in Cincinnati, in July, 1860. The use of this batten with an open joint, on the Rush street bridge in Chicago, could not affect the patent, because the open joint is altogether different from the close joint; for the idea of Jacobs is to close every avenue and make a tight wall, and his patent calls for plates with edges closely abutting and riveted, as aforesaid. An open joint would not answer at all in this jail, as it would facilitate the escape of prisoners and weaken the wall, besides it is neither within the letter nor purpose of the invention or claim. There is, then, no show even of a defense on the ground of prior use.

Turrill vs. *Railroad*, 1 Wall, 491.

Turrill vs. *Ill. Cent. R. R.*, 3 Fisher, 330.

Penn vs. *Bibby*, 2 Law Rep. Ch. App., 127.

It is claimed that this corrugated batten was invented by Isaiah Rogers, and not by Jacobs. But the date of his pretended invention is clearly subsequent to that of Jacobs. See answer of Rogers to question 21: "I made a plan of it; I can not state the exact time; it was some time previous to the lithographs." Now, these lithographs were in March or April, 1860, (see Rogers' last answer) but Jacobs applied for this patent February 1, 1860, and at the time of the conversation with Rogers, in which he showed Jacobs the plans, Jacobs states to him "that he had a cell that was superior to mine," (Rogers) and asks Rogers to come and see it. (See answer of Rogers to questions 22 and 27.) Jacobs also made the batten and furnished it to Rogers. (See answer of Rogers to questions 52 add 53.) So that it is obvious

Jacobs had matured his invention previous to his conversation with Rogers, and was able to and did put it in actual use and shape first; for Rogers never put the corrugated batten in use at all till it was made by defendant, and it is clear Jacobs' ideas were matured before he ever saw Rogers, and his patent had probably at that time been applied for. There is nothing sufficient in this evidence of Rogers to effect or injure this patent. But the evidence of C. M. Valleau puts this matter also at rest. Valleau testifies that early in the year 1859, Jacobs explained this invention to him, claimed the invention as his, and stated its object. (See answers to questions 4, 5 and 6, in deposition of C. M. Valleau.) This was a year before Rogers' date, and is conclusive of the matter of priority.

If Rogers did invent this batten at all, he is subsequent to Jacobs, and never has perfected his idea, or put it in shape or use till after Jacobs' patent, but we claim that Rogers never invented the batten at all, but took his idea from Jacobs, who, according to his own evidence, actually *furnished* the batten to Rogers, and had perfected his plan, therefore, before the idea ever entered Rogers' mind.

INFRINGEMENT.

The answer admits the infringement of this patent, and infringement is also proven by the depositions of Rogers, Clough and Elliott, and by the copy from the working drawings of the Hamilton County Jail (made in 1860) and shown in plate .

FOURTH PATENT—*July* 24, 1860.

SPACE BETWEEN CELLS.

INVENTION.

The invention is thus described by the patentee:

"My invention relates to jails in which the cells are made of plates of iron and riveted together, and it consists in making each cell separate and entire, and so arranging them together as to afford a space between each cell and the cell

next adjacent thereto, in the manner and for the purpose hereinafter set forth. * * * * *

Iron plate jail cells have heretofore been made united with a single partition of iron separating the two adjacent cells, that is, the cells which are alongside of each other, as well as those that are arranged one above another. The objection to this manner of constructing and arranging cells is, that they afford no adequate security against the intercourse of prisoners in adjacent cells. It is found that conversation can be carried on with considerable facility by the prisoners without being heard by the guard, while the peculiar sonorousness of iron plates is such that, by a concerted arrangement of rapping signals, they are enabled to converse with each other with the utmost security against detection. By constructing and arranging the cells separate and distinct from each other, with a space between them on all sides, and having a secret passage for the convenience of the guard when he becomes desirous of becoming acquainted with their movements, any attempt on the part of the prisoners to converse or hold clandestine intercourse with each other, or to work their way through the cells by means of tools or levers is easily detected. The cells could obviously be arranged to open into a central instead of an outside area. In this case, the secret passage for the guard or keeper would be made around upon the outside of the space occupied by the cells, as provided in my invention, for which letters patent were granted to me April 7th, 1859. As the secret passage E, herein described, is only a modification of that which is employed or embraced in the patent above named, I do not claim it as a part of my present invention. Having described my manner of constructing and arranging iron cells for jails, what I claim as new, and desire to secure by letters patent is: I claim constructing and arranging plate iron cells in jails separately from each other, with vertical spaces *e* be-

tween the cells upon the same level, and horizontal spaces *f* between cells arranged one above another, substantially as and for the purpose described."

The effect of this separation of the cells is, that two walls may always be interposed between prisoners, so that greater safety and strength will be obtained, and so that conversation can not be carried on or signals transmitted, as would be the case if the floor of one jail formed the top of that below, or if only one plate wall was between the prisoners at the sides. Each jail is made a separate box or house by this arrangement, and its advantage is obvious. It is fully shown in plates XII and XIII on the opposite page.

NOVELTY.

In order to defeat this patent, defendant must at least prove plate iron cells to have been thus constructed, with vertical and horizontal spaces between them, previous to June, 1860, the date of the application.

The amended answer avers that Isaiah Rogers, Thomas F. Baker and James Whitehouse had prior knowledge of this improvement, and that the same was used in the Hamilton County jail, and the jail at Falmouth, Kentucky.

The deposition of Whitehouse is printed as "Whitehead."

His testimony (Record, p. 104) is to the effect that—he does not recollect in what year, but "it must have been six or seven years ago," a jail was put up in Falmouth, Kentucky, having three cells separated by spaces, but it appears that these spaces were for a brick wall, and by inspection of the exhibit attached to his deposition, it appears that these cells were mere iron linings put inside of brick cells. That each cell was bricked up on all sides, except the door, and that the idea of an iron plate cell was in no way involved in their construction.

Baker was not examined.

The testimony of Rogers is to the same effect as in relation to the first patent. It refers to his plans, drawings and

sketches, but no jail was constructed in accordance therewith till after this patent was granted, nor do any of the drawings show horizontal spaces between the cells, whereas they are made with horizontal as well as verticle spaces. Drawings of the Princeton, New Albany and Lawrenceburg jails, have been furnished by complainant, and will be found attached to the various depositions, and in a reduced form are herewith submitted and attached to this brief. None of them contain the elements of the patented combinations. See cases cited under 1st patent.

INFRINGEMENT.

The answer admits also the infringement of this patent, and the infringement is proven by the depositions of Rogers, Clough and Elliott, and by an inspection of the model. The Hamilton County Jail is built in this manner. Each cell is separate, and they have both vertical and horizontal spaces between the cells, which stand in rows and are placed one above the other.

This arrangement is partially shown in plate XIV, opposite page ⊗.

It is to be noted that the infringements of these patents were willful and intentional. Due notice was given of Jacobs' rights to the Commissioners of the County, May 1st, 1860. (See letter of Valleau and Jacobs, attached to deposition of C. M. Valleau.)

Some proof was offered of foreign use, but it need only be remarked: 1. That the proof is insufficient, and 2. That if it were established, such use does not defeat an American patent. (See 15th Sec. Act, 1836.)

As already remarked, the present case presents, in effect, four different causes of action. Considered separately, they are of easy solution, and, it is submitted, present a clear case for the appellant.

SAMUEL S. FISHER,
Of Counsel for Appellant.

SUPREME COURT OF THE UNITED STATES.

No. 245.

CHARLES F. STANSBURY, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE COURT OF CLAIMS.

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1 In the United States court of claims.

To the honorable judges of the United States Court of Claims:

Respectfully represents Charles F. Stansbury, of Washington, in the District of Columbia, esquire, that on the 25th day of April, A. D. 1851, he was duly appointed and employed by the government of the United States, by virtue of a commission in writing, under the hand and official seal of the Secretary of the Interior, a special agent to take and prepare an account of the London Industrial Exhibition, and make a report thereon; which commission, in its purport and effect, directed that your petitioner "should give accurate and definite information relative to raw materials, the progress of manufacture, and the results of the skill and ingenuity of all nations to be exhibited at the Crystal Palace," at London, in the kingdom of Great Britain, and specified the same in words as follows, to wit: "This account, as far as practicable, should give accurate and definite information relative to—

"First. The raw materials and produce; illustrative of the natural productions on which industry is employed.

"Second. The machinery for agricultural, manufacturing, engineering, and other purposes; illustrative of the agents which ingenuity brings to bear upon the productions of nature.

"Third. The manufactures; illustrative of the results produced by the operation of human industry upon natural productions.

"Fourth. Sculpture models, and the plastic arts generally; illustrative of the taste and skill displayed in such application of human industry.

"Fifth. The processes employed in manufactures, which should be more particularly described."

And said commission also contained a stipulation on the part of the government, in words as follows:

"Neither is it expected of you to perform this important work gratuitously, and, therefore, your actual expenses while thus engaged, and such compensation as your services may reasonably and properly entitle you to, will be allowed."

And your petitioner says that he accepted said appointment, and accordingly attended the exhibition aforesaid during the term of its existence in 1851; that he labored there for the space of nine months and upwards, in obtaining information and taking notes and descriptions of the various articles of industry and art, then and there exhibited, and in collecting the necessary materials by which to illustrate the same, preparatory to the making of the report contemplated in said commission.

That having obtained the necessary information and materials aforesaid, he returned to his home in this District, and here expended much time and labor in preparing his report for publication, and in arranging the necessary drawings for illustrating the various subjects therein contained, which cost your petitioner eight months' labor, in

addition to the labor expended in London as aforesaid. And your petitioner avers that his services aforesaid were reasonably worth the sum of six thousand dollars, and that, as he is advised and believes, he is "reasonably and properly entitled" to recover the same in this action, with interest thereon from the time when said work was delivered over to the government, which was some time in January, 1853.

And your petitioner further says, that, during his labors and stay in London, the government, for the purpose of paying his expenses and out-lays under his agency, and for no other purpose, furnished him with money in different sums, amounting in all to $3,000, and no more; all of which was necessarily expended according to the directions of said Secretary of the Interior, as expressed in said commission, and in his subsequent letters upon the same subject, and his correspondence with your petitioner.

That in the month of December, 1856, he presented an account of his expenditures and outlays to the Secretaay of the Interior, together with the original vouchers covering the whole sum, excepting the small sum of $180, or thereabouts, the same having been expended in very small items, such as for postage, telegrams, cab hire, railway fares, &c., for which he took and could obtain no vouchers. That said account and vouchers at this time are supposed to be on the files of the Treasury Department.

And your petitioner further says, that soon after he had completed the work aforesaid he removed from this District to England, where he remained some three years, in the meantime expecting that the Secretary of the Interior, Mr. Stuart, would advise the necessary appropriation and cause his said claim to be paid. That after his return here, to wit, in December, 1856, he applied to the Secretary of the Interior then in office, Mr. McLelland, for payment, but was informed by him that it could not be paid for reason that Congress had made no appropriation for paying it. That after several other fruitless attempts to obtain payment at said Department, your petitioner, in the month of December, 1861, addressed a memorial to Congress, praying an order that the same might be paid, which memorial, being referred to the Committee on Claims of the House, was considered, and on the 6th of January, 1863, said Committee made a report to the House, recommending payment to the amount of $2,000; that no further action was taken thereon, and said claim has never been paid, nor any part thereof.

2 Your petitioner further says, that he is the sole owner of said claim, the same never having been assigned; that he is a loyal citizen of the United States, and never has, in any manner or form, aided the rebellion.

That as evidence in support of his claim, your petitioner will rely upon the contract as expressed in said commission and in letters of correspondence between himself and the Secretary of the Interior, Mr. Stuart; and as tending to show the value and extent of his services aforesaid, he will introduce for inspection the said report itself, now on the files of the Secretary of the Senate, and will refer to the

reports of the Hon. Secretary of the Interior upon the same subject, made to Congress by him in the years 1851 and 1852, and will call the attention of the court to such evidence and authorities as shall be referred to in his brief, hereafter to be filed in the case.

And your petitioner prays that his evidence aforesaid may be obtained from the files of the several departments, where the same now is, by a special order of court; and that this honorable court, upon a full hearing in the premises, may adjudge the aforesaid claim to be allowed and paid, and that such other and further proceedings may be taken thereon as law and justice shall require.

CHARLES F. STANSBURY.

Sworn to and subscribed before me, this 15th day of May, 1863.

EDMUND F. BROWN,
Commissioner of the Court of Claims.

3 On this 27th day of June, A. D. 1863, personally appeared the within named Charles F. Stansbury, and made oath that no assignment or transfer of the claim specified in the within petition, nor any part thereof, nor any interest therein, has been made; that he is justly entitled to the amount therein claimed from the United States, after allowing all just credits and offsets; and that he believes the facts, as stated in said petition, are true.

Before me—

[L. S.]

EDM. F. BROWN,
Notary Public, and Com'r of the Court of Claims.

[5-cent stamp.]

4 In the Court of Claims to the October term, A. D. 1864.

CHARLES F. STANSBURY
vs.
THE UNITED STATES. } No. 1,900.

And the said defendants, by their solicitor, come and make answer to the petition on file herein, and for answer deny each and every the allegations of said petitioner, and calls for strict proof thereof. And said defendants, further answering, say they are not indebted to the sum of six thousand dollars, or any part thereof; wherefore, they pray judgment, &c.

JOHN J. WEED,
Assistant Solicitor for Def't s.

And for a further plea in this behalf, the defendants, by leave say, actio non; because they say that the claim and cause of action set forth in said petition, if any such there was, or still is, accrued to the said claimant, more than six years before the filing of the petition in this cause, and more than six years prior to the 3d day of March, 1863.

And this the defendants are ready to verify; wherefore, the defendants pray judgment, &c.

JOHN J. WEED,
Assistant Solicitor for Def'ts.

Filed Jan. 9, 1865.

5 In the Court of Claims.

CHAS. F. STANSBURY
vs.
THE UNITED STATES. } Jan. 9, 1865.

And now the claimant comes and says, as to the defendant's first plea, this day filed, claimant joins issue.

And as to defendant's second plea, claimant says it is not sufficient in law.

CHARLES F. STANSBURY,
By ROB'T B. CAVERLY.

Filed Jan. 9, 1865.

6 In the Court of Claims.

CHARLES F. STANSBURY
vs.
THE UNITED STATES.

And now, to wit, 30th of January, 1865, the court, upon due consideration of the premises, do order, adjudge, and decree, that the said claimant take nothing by his suit, and that the said petition be dismissed.

BY THE COURT.

7 In the United States Court of Claims.

To the Hon. Justices of said court:

Respectfully represents Charles F. Stansbury that he is plaintiff in the cause, Stansbury *vs.* The United States, which was decided by this court on the 23d day of January, 1865, against the plaintiff, in which case the plaintiff claimed an appeal from said decision to the Supreme Court of the United States, and that he is now desirous of prosecuting his said appeal, and prays that his said appeal may be allowed.

Specification of errors.

1. At the trial of said cause, plaintiff claimed that the United States owed him $6,000 for his services at the World's Fair in London, and for making a report thereon as government agent. But the court decided that for such service the government did not owe him anything; that, as it appeared during the performance of said service abroad, plaintiff was receiving here his usual salary of $1,200 per year, as a clerk in the Department of the Interior; and that, by the statute of August 23d, 1842, plaintiff could not in such case legally be an agent for the government in London, so as to be entitled to any compensation beyond the amount of his salary in said department, notwithstanding a promise in advance, under the hand and official seal of the Secretary of the Interior, agreeing substantially that plaintiff should be allowed beyond his expenses such reasonable compensation as his services should reasonably entitle him to.

2. Plaintiff thereupon insisted that the statute above cited was not intended to apply to the case at bar, and that if it was, it had been repealed, and that it was of no effect in this case; that in this belief the Secretary of the Interior, acting as such, had, as an inducement, made the promise aforesaid, and that such a promise, made in good faith, ought to be kept by the government. But the court ruled otherwise, and entered judgment for the defendants.

To all which rulings and decision of the court plaintiff excepts, and prays that his appeal aforesaid may be allowed, and that plaintiff's original petition, with defendant's answer, together with all the evidence in the case may be included, to be referred to as part of this case.

CHARLES F. STANSBURY,
By ROB'T B. CAVERLY,
His Attorney.

Filed April 25, 1866.

8 CHARLES F. STANSBERRY
vs.
THE UNITED STATES.

The court of claims certifies the following alterations to modifications of, and additions to, the specification of errors alleged by the petitioner, so as distinctly, fully, and fairly to present the points decided by said court.

That the petitioner was a clerk in *in* the Department of the Interior, and while holding that office, and on the 25th of April, A. D. 1851, he was appointed by the Secretary of the Interior the agent of that department to prepare for it an account of the London Industrial Exhibition. The appointment was made in writing, and it prescribed the general course of its duties, including a report to be made "an appendage to the next annual report of the department;" and it stated that the claimant's actual expenses while thus engaged,

9 and such compensation as his services might reasonably and properly entitle him to, would be allowed to him.

That the petitioner accepted the agency to which he was thus appointed, and attended the exhibition in London during the term of its existence in 1851, and labored there in his duties for nine months and upwards; and with the information and materials thus collected he returned to Washington, and here elaborated his report in a further labor of eight months; and the report being completed, it was returned to the Department of the Interior, and by its Secretary reported to Congress.

That during all the time the petitioner was a clerk in the Interior Department, and was paid as such; and on his return to Washington he resumed his place as clerk in the department, and officiated as such there while preparing his report of his agency.

That his actual expenses in the agency were provided for, and he now claims a compensation for his services as agent of the government to take and prepare an account of the London Industrial Exhition, and make a report thereon.

5 In the Court of Claims.

CHAS. F. STANSBURY
vs.
THE UNITED STATES. } Jan. 9, 1865.

And now the claimant comes and says, as to the defendant's first plea, this day filed, claimant joins issue.

And as to defendant's second plea, claimant says it is not sufficient in law.

CHARLES F. STANSBURY,
By ROB'T B. CAVERLY.

Filed Jan. 9, 1865.

6 In the Court of Claims.

CHARLES F. STANSBURY
vs.
THE UNITED STATES.

And now, to wit, 30th of January, 1865, the court, upon due consideration of the premises, do order, adjudge, and decree, that the said claimant take nothing by his suit, and that the said petition be dismissed.

BY THE COURT.

7 In the United States Court of Claims.

To the Hon. Justices of said court:

Respectfully represents Charles F. Stansbury that he is plaintiff in the cause, Stansbury *vs.* The United States, which was decided by this court on the 23d day of January, 1865, against the plaintiff, in which case the plaintiff claimed an appeal from said decision to the Supreme Court of the United States, and that he is now desirous of prosecuting his said appeal, and prays that his said appeal may be allowed.

Specification of errors.

1. At the trial of said cause, plaintiff claimed that the United States owed him $6,000 for his services at the World's Fair in London, and for making a report thereon as government agent. But the court decided that for such service the government did not owe him anything; that, as it appeared during the performance of said service abroad, plaintiff was receiving here his usual salary of $1,200 per year, as a clerk in the Department of the Interior; and that, by the statute of August 23d, 1842, plaintiff could not in such case legally be an agent for the government in London, so as to be entitled to any compensation beyond the amount of his salary in said department, notwithstanding a promise in advance, under the hand and official seal of the Secretary of the Interior, agreeing substantially that plaintiff should be allowed beyond his expenses such reasonable compensation as his services should reasonably entitle him to.

2. Plaintiff thereupon insisted that the statute above cited was not intended to apply to the case at bar, and that if it was, it had been repealed, and that it was of no effect in this case; that in this belief the Secretary of the Interior, acting as such, had, as an inducement, made the promise aforesaid, and that such a promise, made in good faith, ought to be kept by the government. But the court ruled otherwise, and entered judgment for the defendants.

To all which rulings and decision of the court plaintiff excepts, and prays that his appeal aforesaid may be allowed, and that plaintiff's original petition, with defendant's answer, together with all the evidence in the case may be included, to be referred to as part of this case.

CHARLES F. STANSBURY,
By ROB'T B. CAVERLY,
His Attorney.

Filed April 25, 1866.

8 CHARLES F. STANSBERRY
vs.
THE UNITED STATES.

The court of claims certifies the following alterations to modifications of, and additions to, the specification of errors alleged by the petitioner, so as distinctly, fully, and fairly to present the points decided by said court.

That the petitioner was a clerk in *in* the Department of the Interior, and while holding that office, and on the 25th of April, A. D. 1851, he was appointed by the Secretary of the Interior the agent of that department to prepare for it an account of the London Industrial Exhibition. The appointment was made in writing, and it prescribed the general course of its duties, including a report to be made "an appendage to the next annual report of the department;" and it stated that the claimant's actual expenses while thus engaged,

9 and such compensation as his services might reasonably and properly entitle him to, would be allowed to him.

That the petitioner accepted the agency to which he was thus appointed, and attended the exhibition in London during the term of its existence in 1851, and labored there in his duties for nine months and upwards; and with the information and materials thus collected he returned to Washington, and here elaborated his report in a further labor of eight months, and the report being completed, it was returned to the Department of the Interior, and by its Secretary reported to Congress.

That during all the time the petitioner was a clerk in the Interior Department, and was paid as such; and on his return to Washington he resumed his place as clerk in the department, and officiated as such there while preparing his report of his agency.

That his actual expenses in the agency were provided for, and he now claims a compensation for his services as agent of the government to take and prepare an account of the London Industrial Exhition, and make a report thereon.

10 That thereupon the court ruled that the claim of the petitioner was within and barred by the act of Congress, Aug't 23, 1842, § 2, (5 U. S. L., 510,) and was not removed therefrom by the act of Congress of Aug. 26, 1842, § 12, (5 U. S. L., 525,) and ordered judgment to be entered for the defendants.

And the said petitioner had assign for error in said ruling and judgment; that upon the facts above set forth, he is entitled to the compensation claimed in his petition, and that his claim is not within or barred by said statute of Aug. 23, 1842, and that the same was repealed by the act of Congress of Aug. 26, 1842.

11 In the court of claims, June 21st, 1866.

CHARLES F. STANSBURY }
vs.
THE UNITED STATES. }

Ordered that the appeal in the above-named case be allowed, and that it be certified, with such alterations and modifications of the petition for the same as are filed by the court.

BY THE COURT.

12 In the court of claims.

CHARLES F. STANSBURY }
vs.
THE UNITED STATES. }

I, Sam'l H. Huntington, chief clerk of the Court of Claims, do hereby certify that the foregoing is a true copy of the proceedings in the above entitled case, and of the final judgment of the court thereon; and of the petition of the claimant for the allowance of an appeal, filed within ninety days after the rendition of judgment in s'd case, and of the alteration and modifications of the points decided and alleged for error, as certified by the court, and of the order of the court allowing the same.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Washington, this 27th day of June, A. D. 1866.

[SEAL.] SAM'L H. HUNTINGTON,
Chief Clerk Court of Claims.

Attest:
JNO. CASEY,
Ch. J. Ct. of Cl.

Filed 16 May, 1867.

SUPREME COURT OF THE UNIED STATES.

No. 101.

DECEMBER TERM, 1868.

CHARLES F. STANSBURY, APPELLANT,

vs.

THE UNITED STATES.

Brief for the appellee.

This case comes here by appeal from the Court of Claims, which court certifies, that the appellant, a clerk in the Interior Department, was appointed by the Secretary of that department, on April 25th, 1851, to prepare for it an account of the London Industrial Exhibition, under an appointment in writing, stating that his actual expenses, while thus engaged, should be paid, and that such compensation, as his services might reasonably and properly entitle him to, would be allowed to him; that he attended said Exhibition for nine months in 1851, and was engaged in Washington in making up his report for eight months thereafterward, all the while holding his place and drawing pay as clerk in the Interior Department. His actual expenses were provided for, and his claim is for compensation for his services thus rendered.

The Court of Claims adjudged that he take nothing by his suit, and correctly, inasmuch as—

I. No authority of law existed for the promise stated in the alleged appointment, made by the Secretary of the Interior, of April 25, 1851.

II. The absence of any appropriation for paying this claim stated by the Secretary of the Interior (p. 2) was a lawful reason for not paying the same, which furnished no ground for a petition to the Court of Claims.

III. The allowance of this claim was positively prohibited by sec. 2 of the act of August 23, 1842, (vol. 5, p. 510;) this, notwithstanding the passage of section 12 of the act of August 26, 1842, (vol. 5, p. 625.)

IV. It is also prohibited by sec. 3 of the act of March 3, 1839, (vol. 5, p. 349,) Hoyt *vs.* United States, 10 How., 141.

W. M. EVARTS,

Attorney General, for the United States.